S. Hrg. 98-730

WHITE SANDS MISSILE RANGE, NEW MEXICO

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS AND RESERVED WATER

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

ACQUISITION OF LAND, AND ACQUISITION AND TERMINATION OF GRAZING PERMITS OR LICENSES ISSUED BY THE BUREAU OF LAND MANAGEMENT PURSUANT TO THE TAYLOR GRAZING ACT (43 U.S.C. 315 ET SEQ.) AT THE WHITE SANDS MISSILE RANGE, NEW MEXICO

NOVEMBER 15, 1983

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WHITE SANDS MISSILE RANGE, NEW MEXICO

TUESDAY, NOVEMBER 15, 1983

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2 p.m., in room SD–366, Dirksen Office Building, Hon. Malcolm Wallop, presiding.

Present: Senators Wallop, Domenici, and Hecht.

Also present: Tony Bevinetto, professional staff member, and Thomas B. Williams, professional staff member for the minority.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. Good afternoon. The Senate Subcommittee on Public Lands and Reserved Water will receive testimony today, both oral and written, on a longstanding problem concerning the acquisition of land, and acquisition and termination of grazing permits or licenses issued by the Bureau of Land Management pursuant to the Taylor Grazing Act at the White Sands Missile Range.

This hearing today is defined as an oversight hearing. That is, we are not considering a particular bill or a specific piece of legislation, but rather we are trying to determine basic facts. We will make inquiry into procedures used in acquiring private and State lands within the White Sands Missile Range and the McGregor Range in New Mexico.

The White Sands Missile Range initially consisted of about 1.5 million acres of Federal public domain lands, 342,000 acres of State lands, and 72,000 acres of private lands. The Federal Government has withdrawn the public domain lands from public use, terminated the grazing permits or licenses, and acquired both private and State lands for national defense.

All parties have been asked to testify on the following issues:

First, the issue of just compensation for property taken by the condemnation of said lands.

Second, the issue of methods used in appraisal and assessment of fair market value for lands and property under condemnation.

Third, the issue of termination and suspension of grazing permits and leases and compensation for permits and leases.

Fourth, the issue of the acquisition of State lands.

The establishment of the White Sands Missile Range dates back to the early 1940's. Any land withdrawal with subsequent terminations and acquisitions of this size over a 40-year period becomes a very complex issue. There is currently pending litigation between the United States and the State of New Mexico. Several cases were just recently adjudicated. I relate this because Congress can act as a court of last resort to provide equity when all other remedies have been exhausted.

Normally Congress does not enter into an issue to provide relief through litigation until the litigation is over.

This hearing is an opportunity to tell your story. The best way to do that is through straightforward testimony backed with your written data.

The Senate is in the final week, we hope, of the first session of the 98th Congress. Many committees are meeting and several major issues are being resolved on the floor of the Senate. In short, it is a very busy time. I will be here to open the hearing and other Senators may assume the Chair from time to time. For those of you who are attending your first congressional hearing, do not be disappointed if there are but a few Senators attending. The Senators and their staff will avail themselves of the transcript and the printed hearing record that will follow.

It is only after a thorough review of the hearing record and the issues raised that the New Mexico Delegation may consider starting the long legislative road to seek whatever kind of relief is indicated.

I appreciate the cooperation of the ranchers in organizing themselves into a panel to present their testimony. By doing this, you give yourselves more time to develop your individual cases. The hearing record will remain open for 2 weeks and will be mailed to anyone upon request in about 2 months.

With that I would say that one of the Senators who may be in and out of this is the committee chairman himself. I have to Chair the Intelligence Budget Conference between the House and the Senate on matters of national defense and national intelligence and national foreign policy and must go to that, as I am the chairman of that conference.

Senator Domenici is here and Senator Hecht is here and it is my understanding that other Senators will be in and out. And as soon as that hearing is done, I will return here. I would ask Senator Domenici if he has an opening statement.

Senator Domenici. Thank you very much, Mr. Chairman. I think I can preside for most of the afternoon, that if you do have other responsibilities I will relieve you.

I want to first say that we have a number of New Mexicans here. They are good people and they are very worried. They think they have cause and they do and I want to personally in their behalf and in my behalf and I am sure Senator Bingaman joins me, I want to thank you for arranging this hearing.

From what we can tell this is the first official type hearing on an issue that will just amaze you. It has been going on since the Second World War with the Government changing its position from time to time with reference to payment to the ranchers. We want to get the hearing over with today. We know that we chose a very difficult week.

The Senate will have measures on the floor. You have two measures that you have to go to and I thank you for indulging us. We will do the best we can. Thank you for the excellent staff. They have done a good job in preparing for the hearing and in talking to the New Mexican witnesses.

I would like very much to make some additional remarks, but perhaps we could yield now to Senator Hecht. I want to thank him. He has many things to do. I think you all know that he is the new Senator from Nevada, who is interested in your problems. He will be here for an hour or so to help out. Thank you, Senator. I would be pleased to yield to you at this point.

STATEMENT OF HON. CHIC HECHT, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator **Hecht**. Thank you very much, Senator, Mr. Chairman. I am from your neighboring State, Nevada. We have very, very similar problems from time to time. I am quite anxious to hear from all of you.

That is all of my remarks.

Senator **Wallop**. Thank you very much, Senator Hecht. The first witness will be the Honorable Jeff Bingaman, the Senator from the State of New Mexico.

Senator **Domenici**. With your indulgence, Mr. Chairman, and certainly, Jeff, I think we have a distinguished Congressman here, if both of them would like to come up. Congressman Skeen is here.

Senator **Wallop**. Would you like to join Senator Bingaman at the table.

Mr. **Skeen**. Thank you.

Senator **Domenici**. I would like to read some opening remarks, if I might, Mr. Chairman.

Senator **Wallop**. Without objection.

STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator **Domenici**. Again, I want to thank you for holding these hearings on the missile range land acquisition. To you and those who are here today, I am once again going to say I am sorry that my personal health interferred with our earlier planned hearing. We probably would have had more time. I appreciate the distinguished chairman's rescheduling the hearing for this afternoon with the full understanding that it would be a difficult one.

I am not going to say a lot about the White Sand ranchers' case. They themselves are here to present their facts. I will say right up front that the record on this subject is very unclear. It is very difficult to ascertain. I think only a full Senate record can lay the facts for us, the U.S. Senate, so we can act. I think this is the first official time after years that we will have a congressional record on this very difficult issue.

This matter began 40 years ago, in fact over 40 years ago, Mr. Chairman, and to put it bluntly, answers are still being looked for. Questions are still being asked. I am looking for evidence of actual wrongdoing by the Federal Government, which the laws of this Nation have been violated. I would especially appreciate any testimony that may shed light on things of that type.

However, I have stated for over a year that the question in these cases does not really revolve around legal issues but rather whether or not a group of loyal Americans were treated fairly by their Government over the course of the past 40 years.

I hope we can end up convincing this committee and also the Congress that the issues as I have described are not one of legal precedent exclusively. If that is the case the courts will determine without a real feel, in my opinion, for what permits mean to a family and the way the Government should have treated these permit fees in terms of being fair, rather than ultimately relying upon a strict legal interpretation.

It would seem to me that we are here because the Federal Government was indecisive in what they wanted to do with these ranchers. In 1942 they forced them off their ranches to help the war effort. After the war they were allowed to return to their ranches for just a short period and then forced off again. They did not know if they wanted to purchase the ranches in fee so they came up with something called a lease and suspension agreement.

Then, almost 30 years later, they decided that they needed to acquire complete ownership. In other acquisitions, such as the MacGregor Range, and I think some of the ranchers who are here had an interest there, their families, the MacGregor Range—the Army came in and purchased the ranches outright. For the most part, this allowed the owners, as you well know, both of you Senators, allowed those families to go out and purchase other ranches.

That did not happen to most of them here. They had little, annual payments made to them, none of which were made with certainty, the certainty that would allow them to invest based upon them. So we are caught in a situation which placed them in a state of kind of limbo or suspended animation for at least the past 30 years.

The question of equity in this case revolves around the issue of the privilege of being granted a Federal grazing permit by the Bureau of Land Management and whether there is a financial value associated with that privilege. The courts did not recognize the value of the grazing permit to these ranchers when they were seeking just compensation in the legal and constitution sense.

However, I am informed that in the late thirties, lending institutions began attaching a value to these permits. Further, I have been told by many ranchers that, believe it or not, the Internal Revenue Service has attached a value to those permits over the years. In fact, I remember meeting one of the families represented here 3 years ago, where they were just closing up an estate. That estate had been assessed a fair market value by the Internal Revenue Service and indeed it was assumed to have a very significant value.

Yet, the courts have not found that to have a value within the term of just compensation. Therein lies part of our problem. To show the need for these hearings, I have included in the record letters from some very distinguished New Mexicans, Mrs. Alice Lee Cox of Las Cruces. She is also a good friend of mine. I have known her for a long time. She and her husband, Hal Cox, who passed away a few years ago, are pioneers.

It is interesting to note how much this has affected their lives and I will not read the letter. I will just ask that it be made a part of the record.

I have included a couple of others. One from Mrs. Laura E. McKinley. I would ask that it be made a part of the record.

I indicate to you, Mr. Chairman, that I am most appreciate that you called the hearing and I am sure this committee will be able to do justice and fairness for these ranchers, even though we will not get the legislation until next year. Thank you.

[The prepared statement of Senator Domenici follows:]

STATEMENT OF SENATOR PETE V. DOMENICI
BEFORE THE ENERGY AND NATURAL RESOURCES COMMITTEE OF THE UNITED STATES SENATE
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER
NOVEMBER 15, 1983

CHAIRMAN WALLOP, I want to thank you for holding these hearings on the White Sands Missile Range Land Acquisition. To you and those who are here today I am once again going to say I am sorry that my personal health interferred with an earlier planned hearing and I appreciate Senator Wallop's consideration in rescheduling that hearing for this afternoon.

I am not going to say a lot about the White Sands ranchers case today. They themselves are here today to present their facts. I will say right up front that the record on this subject is unclear in some areas. As far as I know this is the first official Senate hearing on the subject in which the ranchers are allowed to fully present their side of the story.

I have looked closely into this matter which began over 40 years ago and to put it bluntly, I am still looking for answers to many questions. Further, I am looking for evidence of actual wrongdoing by the federal government in which the laws of this nation have been violated. I would especially appreciate any testimony that may shed light on specific wrongs.

However, as I have publicly stated for over a year, the question in these cases does not really revolve around legal issues but rather whether or not a group of loyal American citizens were treated fairly by their government over the course of the past 40 years.

It would seem to me that we are here today because the federal government was indecisive in what they wanted to do with the White Sands ranchers. In 1942, they forced them off their ranches to help the war effort. After the war they were allowed to return to their ranches for a short period and then were forced off again. They did not know if they wanted to purchase the ranches in fee so they came up with something called a lease and suspension agreement.

Then, almost thirty years later, the government decided that it needed to acquire complete ownership of the land. In other acquisitions such as the MacGregor Range, the Army came in and purchased the ranchers outright over a few years time and, for the most part, this allowed the owners to purchase other ranches if they wanted to. In the case of the White Sands ranchers, they were given a few thousand dollars each year under these lease and suspension agreements and local lending institutions refused to allow them to use their White Sands properties as collateral to purchase other ranches. So they were caught in a situation which placed them in a state of suspended animation for the past 30 years.

The question of equity in this case revolves around the issue of the privilege of being granted a federal grazing permit by the Bureau of Land Management and whether there is a financial value associated with that privilege. The courts did not recognize the value of the grazing permit to these ranchers when they were seeking just compensation. However, I am informed that in the late 1930's lending institutions began attaching a value to these permits for purposes of financing ranchers and for purposes of the purchase and sale of ranches. Furthermore, I have been told by many ranchers that the Internal Revenue Service certanly has attached a value to those permits over the years for estate taxes and that some of those in this hearing room may well have been forced to pay taxes on something other government agencies said that no tangible value attached to it.

To show the need for this oversight hearing I would like to read to you comments from some of the people who are involved in this issue for the 40 year period.

I pass on to this committee the comments of Mrs. Alice Lee Cox, of Las Cruces, New Mexico, who is not only involved in this issue but who is also a good friend. She and her husband, Hal R. Cox, who passed away a few years ago, represent a real pioneer family from southern New Mexico.

After outlining the many upheavals and changes in plans by the Defense Department, Mrs. Cox states:

"Our lives were changed drastically by these upheavals. When we were forced from the ranch, we borrowed money from a friend in El Paso and bought an alfalfa farm in Blythe, California. We were not farmers, did not want to make our home away from New Mexico, sold it, and went head over heels in debt to buy a ranch near Hillsboro, New Mexico. Hal's health begin to fail, so we sold the ranch there and moved to Las Cruces, where he died November 2, 1980, at the age of 87.

A few years ago we asked permission to take a favorite neice and nephew, who had never seen our ranch, to visit it for an hour or so. Permission was granted under the condition that we be met at the gate by security guards, who accompanied us every step of the way".

This is part of the legacy of Hal Cox. As Alice continues, "Hal's father and mother had settled on this ranch in 1886, having traveled overland in a covered wagon from South Texas. This ranch is where Hal grew up, where we anticipated spending the rest of our lives together".

Another former White Sands ranching family member, Mrs. Laura E. McKinley of Alamogordo, also wrote me a very moving letter outlining her life for the past 40 years.

Laura stated:

"On February 12, 1942, when we started trailing our cattle, and trucking our belongings, the weather was cold, sleety and windy. Trailing 450 head of cattle and some horses during that kind of weather was a trying experience; some calves were born on the trip to our new location at Engle, New Mexico, and we had to truck these calves and some weak cows. Even then we lost some calves and a few cows. There was no way we could get the government to let us postpone moving until April or May. We were not paid any moving expenses at all.

We had a son four years old, and I was expecting another child. There was no suitable place for us to live on the ranch we had leased, so we rented a home in Truth or Consequences, New Mexico, first and later moved to Las Cruces".

In closing, Laura writes: "The White Sands Missile Range has been great for all the towns nearby, but it should not have been established at the expense of one hundred and ten ranchers. Many of the ranchers are dead and their families are carrying on in our effort to receive payment for our ranch units. I will still pray this will come".

Chairman Wallop, I think those words answer convincingly well the question why we are here today.

Senator WALLOP. Thank you, Pete. All of those letters will be made a part of the record.[1] I am not unfamiliar myself with the idea of attaching values to grazing leases. I have had to pay for them and have also been able to dispose of them each time with some recognizable compensation involved. And I would ask Senator Bingaman and Congressman Skeen, if they wish, to come up and listen to the proceedings after you have made your statements, for as long as you care to be here.

I would also say that what we hope to do was what I said in my opening statement, and that is to establish some kind of an understanding of what it is, so at such time as the New Mexico delegation wishes to enter into some kind of legislative proposal that that at least will have been the background of it, as with most of those further hearings, that will probably be necessary at that time, but at least you would have an understanding of what legislation has been introduced and the background of it.

With that, I would ask Senator Bingaman to start. If you would all indulge me while I run off to see what can be done about Central America and then I will be back.

STATEMENT OF HON. JEFF BINGAMAN, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator BINGAMAN. Thank you very much, Mr. Chairman. Let me just also commend you for taking the time and resources of this subcommittee to hear the testimony today on this vital issue. I also want to express my appreciation to Senator Domenici for the leadership he has shown on this and to Congressman Skeen, who has really taken the lead in the House side with legislation which I am sure he will describe in more detail.

It is a pleasure for me to be able to join with these good people from New Mexico to discuss with the committee the longstanding issue of how private and state lands were acquired by the Army and the Army Corps of Engineers for the White Sands Missile Range.

Many of the people here today were moved from their property on short notice in the interest of our national defense. The ranchers accepted this treatment as an act of patriotism. Notice to vacate and cancellation of grazing privileges gave little or no consideration to the logistics of moving large numbers of livestock, and no consideration was given to the difficulty of locating suitable ranges to which the cattle could be relocated.

Consideration was not given to the problems of moving livestock on short notice.

And the lack of immediate compensation left many ranchers without adequate resources to lease or purchase a new location and thus resulted in many forced sales of livestock at fire sale prices. Due to what turned out to be a strategy of postponement and piecemeal settlements many legitimate claims for compensation continued to be unsettled.

New Mexico State University economists have conducted a study of the history of the taking of those properties, along with an evaluation of the fair market values involved. And Congressman Skeen's bill takes advantage of this study in trying to identify an equitable system to compensate owners for values taken and not yet paid.

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[1] See appendix.

It is indeed unfortunate that the compensation has been so long delayed. The compensation at the time of taking could have been accomplished with much less hardship on the ranchers and at less expense to the Government.

I also want to just take a moment to commend Commissioner Baca for his efforts, which I hope will be described today also to the committee, to bring to the attention of Congress the issue of public trust lands within the missile range. It is important that the State and its residents be allowed to benefit from these trust lands to the maximum extent possible.

I certainly look forward to exploring those options which the commissioner is recommending. I sincerely hope that our efforts to settle the question of just compensation can be handled at this time and give the affected New Mexico citizens relief and restore as nearly as possible the reputation and integrity of the Federal Government as it deals with its citizens in the future.

Thank you very much, Mr. Chairman. I will at your invitation sit and listen to some of the testimony if that is acceptable.

Senator **Domenici** [presiding]. I welcome you, Senator. Senator, I may have to leave from time to time and I would like to discuss with you if you might relieve for a bit if I have to.

I am pleased to have my good friend Congressman Skeen here today. Joe, if you want to join also for purposes of participating, you are welcome to join us here. I want to compliment you for the work you have done. You have introduced legislation on the House side. You have made everyone in New Mexico fully aware of the serious inequity that exists and because of your continued interest, you have caused the House to be concerned about it. I just want to commit to you that I have sufficient help here on this committee. They have committed to go along with something that is reasonable and fair and we will call upon you from time to time to help us as we do that here, so that we can report something out of this committee next year, which you feel comfortable with in the House, so we can end this 40 to 45 years in a way to make you proud and to make Senator Bingaman and I proud and so the people in New Mexico will be grateful to us for what we do.

That is our goal and we will try real hard to do that. I would be pleased to hear from you in reference to this. If you have prepared remarks, we will make them part of the record. If you want to read them in whole or in part, it is up to you.

STATEMENT OF HON. JOE SKEEN, A U.S. REPRESENTATIVE FROM THE STATE OF NEW MEXICO

Mr. **Skeen**. Thank you very much, Mr. Chairman, and my good friend, Senator Domenici, Senator Bingaman, and Senator Hecht. I appreciate very much this opportunity to come here.

No, I am not going to read the entire insertion that I have for the record, but I would like to synopsize what I intend doing and what has gone on and to give some background to this committee and would let the committee insert the statement that I have in your record so we can flex that out.

I was very interested in your statement about the congressional record. As you know and are perfectly aware of, and all of us from New Mexico have been aware of for a long time, there is a long history of congressional record insofar as this one controversy that has gone on for some 40 odd years. A little over a year ago, David McDonald slipped into a top security area on the White Sands Missile Range and stood off all efforts to remove him for some 3 or 4 days, along with his niece Mary McDonald. I believe Mary is in the group here today.

But it dramatized a problem that has been going on in our State for some 40 years, as you have mentioned. And it struck me at the time, that now is the time, if there ever is a time, to come to this court of last resort, if you want to characterize the Congress as being that, because this problem has been litigated. It has been masticated, obfuscated, chewed up, and every other way that you can look at it, but there has been no resolution of this problem in the 40 years that it has been dealt with.

David McDonald was not trying to commit an illegal act. He was trying to go home. He is 80 some odd years old. When he left his home on the White Sands Missile Range, he was 40 some odd years old. We have a strong sense of home and/or property in New Mexico, just as they do in Nevada and many other States of the United States, particularly when it involves human beings who have wrestled a livelihood from a piece of ground that no one else in their right mind would really want.

And I am not trying to characterize the land that we are dealing with in the White Sands Missile Range as not good for anything else. It is. It is good for a lot of things. But on the surface to those who are not accustomed to scratching as they call it in our part of the country, for a living, to view that area as a bountiful provider of a livelihood would have to say that somewhere along the line someone has slipped a cog. It takes an awful lot of work to make that land productive.

These folks did that years before the Government ever evidenced any real interest in it. They developed ranching units, long before there was any declaration as to whether it would be State land, Federal land, private land or whatever. They developed those ranches with their hands. They worked them as family units and they were very productive in the commercial production of livestock.

The Government decided to use that land for a testing range and these people complied. Some 150 persons were involved at the outset. And they gave up willingly their homes and that land that they had put together, had ridden over day after day, had dug post holes in, had had wells developed on, because there was no water. If you want a description of what I was talking about earlier, when you call part of this range the hornada del muerto, the journey of death, which the Spanish called that part of the country that some of these ranches were established in, it means the journey of death, because there was no water ever developed there.

These people scratched out a living, put it together.

The Government came in and decided they needed it and these folks did not complain about that, because they knew what the situation was and being very patriotic, they left willingly. The Government as a make do matter initiated a leasing agreement that they renewed periodically.

During all of this time, all of these people fully expected to go back to their home properties. That is what Dave McDonald was trying to do. He wanted to go home. He is in the twilight of his life. He is 80 some years old, still very energetic, but he wanted to go home. He wanted to stand on his own porch. He wanted to see the sun set from a place he had seen it as a boy and as a young man, had ridden over, had developed, and he wanted to see what condition it was in.

So he caused quite a stir. He dramatized throughout the United States this problem once again that we are trying to face, that we are trying to resolve and we have not resolved in some 40 years. Because the leasing agreement was not a happy one, because these folks fully expected to go back.

Parallel and paradoxical to this was the development of the McGregor Range, which is in very close proximity to the White Sands Range. But those displacees just a few years later were handled quite differently. They were compensated for their land and told that you will never return to this piece of land, because the Government wants it and we are going to keep it and we are going to develop a missile range and we are going to develop a gunnery range, or whatever they were going to put in there, a weapons testing system. And we will help you move and in some cases they did.

They provided funds for the relocation of those persons who were displaced. Once again, the White Sands people were never compensated for the ranching units that they had developed, operated and so willingly gave up with the expectation that they would get their land back.

I think it is fair to say that we know that they will never regain that property. So it is time now for the Federal Government, and I know, there are many criteria that have been used throughout the years and I do not criticize any Government agency that has gone in there and tried to resolve this problem, because they did it from their base and on the criteria that they had to operate on and according to the legal terminology, the legal view of how you compensate people and all quite correctly, but without equity and that is the base question that we are dealing with here today.

Never in the 40 years that this problem has gone on has there been an equitable solution, because it did not involve compensating these people for an entire ranch unit that was taken out of production. They were compensated to some degree for the improvements and so on.

So that is the history. That is some of the background. I know I have been a little redundant and I know that I am holding up—I hear the buzzers going off. We are doing the same thing over on the other side. We are conferencing on dairy, by the way, and if we can solve that problem, we can surely solve the White Sands Missile Range program and problem that has been ongoing for so long.

I have introduced a bill H.R. 4022 that approaches this from the standpoint that a rancher would. If I were going to sell my property, I would do it on an animal unit basis. What is its carrying capacity?

We have evolved in this a very simple formula. Maybe that is the problem. Everything around here seems to have to be complicated to get attention. But it should not be. It is on an animal unit basis, at so many dollars per animal unit and considering those ranches as ranch units and what they will carry.

That is simply our approach and this is our court of last approach and appeal. I do appreciate so much your kindness and hospitality in inviting me to come over here today, because I do have a strong commitment to help resolve this thing. I think it has gone on, and it is a shame for this country to have let it go on for this long without some resolution.

We have held these people's lives up for some 40 years, because we have captured their collateral and have not let them have access to their own property or to make decisions, and have never told them go make another life for yourself; we are going to pay you off; now go on and find some other place to do whatever you want to do. We have kept them captive for all of this time.

Thank you for your kindness. I thank my two colleagues from New Mexico for their help in this area and their interest. It has been heart warming to see us pull together. You are going to hear some very interesting testimony from some very interesting people. These are the heartiest souls that you will find anywhere in the United States and the most patriotic. They will do anything for this country, including giving up their home, which they have done for some 40 years.

So I thank you for giving them an ear. They deserve it. Let us see if we cannot find some resolution to this problem and I will do anything in conjunction with you to help you or ask you to help us in a final resolution of this particular matter. So thank you very much.

[The prepared statement of Mr. Skeen follows:]

TESTIMONY OF THE HONORABLE
JOE SKEEN

About 40 years ago, the international strife that plagued this country united Americans of every background regardless of race, religion, social status, or occupation. Most Americans were asked to sacrifice for the great causes this nation fought for. Here before you today, are just a few of the many patriotic individuals who made great sacrifices for this country. All of these fine people gave up their lands, their livelihood, and their homes to the U.S. government which pledged that these ranchers would be returned their property once hostilities during World War II ended. The productive land these ranchers gave up was ultimately used to develop and detonate the most destructive weapon known to mankind: The atomic bomb. Nearly four decades after Hiroshima and Nagasaki, and after the rebuilding of Japan and Europe, these group of ranchers are still trying to rebuild their lives and salvage what is left of the future. In a real sense, the destruction of World War II has never ended for these individuals and it is ironic that a nation which can establish a Marshall plan to rebuild Europe has failed to adequately compensate their own citizens. I would like to briefly give some background information with regard to this injustice.

The history of the controversy is long and dates back to the 1940's when the White Sands Missile Range was known as the Alamogordo Bombing Range. In the interests of the nation's defense posture, lands were "borrowed" from the citizens of New Mexico for use by the War Department under Executive Order 9029 dated January 20, 1942.

The main part of the White Sands Missile Range is approximately 100 miles in length and 40 miles in width. The range initially consisted of about 1.5 million acres of Federal public domain land, 342,000 acres of State land, and 72,000 acres of private land. At the time the federal government began to use the land in 1942, most of the land was divided into ranching units that were generally a combination of privately owned land, State-owned land leased by ranchers from New Mexico, and public domain land being used by ranchers under grazing permits of licenses issued by the Bureau of Land Management pursuant to the Taylor Grazing Act (40 U.S.C. 315a).

Over the years, the Federal Government has withdrawn the public domain land from public use, terminated the grazing permits or licenses issued under the Taylor Grazing Act, and acquired the privately owned and state owned properties. These actions were taken because the Federal Government claimed it needed the lands for national defense purposes.

All this time, however, the ranchers at White Sands were told that the military needed the land just for the duration of hostilities. At that time, they were told that the lands would be returned complete with the improvements that they had made. When World War II ended the government continued to use the White Sands ranchland, but it never said it planned to keep the land forever. Thus, the ranchers were kept in a state of limbo never knowing for certain when or if they could permanently return to their homes. This state of limbo was technically referred to as "lease and suspension" agreements. These agreements resulted as a consequence of Public Law 663 dated on July 9, 1942 which provided for the payment for the cancellation of permits or licenses when lands were withdrawn for war purposes in such "amounts as the head of the department of agency so using the lands shall determine to be fair and reasonable" for the losses suffered.

From 1942 until 1970, the Government paid compensation to the ranchers under the so-called lease and suspension agreements. The leases applied to the private and state-leased lands, and the suspension agreements applied to the termination or non-use of the grazing permits or licenses issued under the Taylor Grazing Act. The public domain land was withdrawn from public use for military purposes before the lease and suspension agreements expired on June 30, 1970. At that time, it was determined that the losses suffered by the holders of the grazing permits on public domain land as a result of the withdrawal had been fully compensated for by the rental payments already made and that no further payment could be made to former holders of grazing permits on public domain land after June 30, 1970 This decision was made by staff of the Secretary of the Army, the Department of Defense, and the Armed Services Committees of Congress.

At one point during these years, some of the ranchers were allowed to return for about three years. They went in, rebuilt their homes and fences, cleaned out their wells, and re-introduced their herds. But alas, the government returned and put them off their land once more. During all this time, the government paid no lump sums or no "up-front" money, but rather they were given yearly allowances that amounted to pittances. Thus, the ranchers were unable to re-establish themselves as ranchers elsewhere. They were essentially ranchers without ranches, families with no roots, and individuals robbed of their future livelihood.

It became increasingly clear that the government had no intention of returning this land to the ranchers. For a number of years prior to 1974, the Department of the Army attempted to obtain authority to acquire fee title to the privately-owned and State-owned land within the exlusive use area. An authorization and appropriation were included in the Military Construction Authorization Act of 1974 and the Military Construction Appropriation Act of 1974. The sum of $2,706,000 was appropriated by these acts for the acquisition of the privately-owned lands at White Sands. All of the privately owned land with the exception of 9,566 acres were acquired with this appropriation. Funds in the amount of $2,100,000 were used to acquire the remaining privately-owned land and some outstanding mining claims on the former public domain land under the FY 1980 MCA Act. All remaining privately owned lands have now been acquired, although there are still nine condemnation cases involving 17 separate tracts of land with an appraised value of $320,000 which are pending disposition in the United States District Court.

Therefore, more than 40 years later, the government admits it plans to keep the land at White Sands. Clearly, there is an important national defense interest at stake on that land; I don't think anyone argues this point. However, the government still doesn't want to fairly compensate the ranchers for their operations. They say their homes, fences, and wells no longer have any value because the ranchers don't use them and the government has no use for them. The government contends that the lease payments over the years constitute adequate compensation. So far as we can determine this is a unique situation. In other cases in which the government needed lands for such operations the ranchers were paid in full and often given re-location money. They were allowed to continue their lives as they chose to live them.

Understandably, many ranchers over the years have felt that the government has betrayed them. As a result, many of those directly involved in this controversy see the actions of 82 year old Dave McDonald as a paradigm of their problems and as symbol of their frustrations and hopes. On October 13, 1982 Mr. McDonald, a former White Sands rancher, gathered guns and food and went to reclaim his home. For four days, Mr. Mc Donald defied White Sands Missile Range military personnel by occupying the now decrepit ranch house from which he was evicted in 1942. Mr. McDonald refused to leave until he was given the chance to be heard. Well about a year later, it's clear that people have listened. Indeed, his action may have served as the catalyst for these hearings today.

The Fifth Amendment of the Constitution provides for the government's taking of private land for the public good. It also mandates fair and just compensation to the private property owners. In the case of White Sands, the government did not hesitate to acquire the land for the public good; however, it has failed to provide fair and just compensation. Somewhere along the way, our government has lost sight of this Constitutional provision.

I have introduced H.R. 4022 to remedy the 150 or so ranching families who were displaced by the creation of the White Sands Missile Range. I believe this legislation is a significant step is the process of finally bringing an end to this controversy. H.R. 4022 is the result of a year of study and consultation with the ranchers, the New Mexico Cattle Growers Association, and the range management specialists at New Mexico State University. I believe we have come up with a bill that can work in an equitable fashion. This legislation provides for compensating the ranchers on the basis of the "carrying capacity" of their operations as recorded by the BLM in 1941 or at the time the ranches were taken by the government. A provision of the bill would subtract in "current value dollars" any sums previously paid for acquisition of the ranches.

That's a very simple, general history of what has happened at White Sands. In reality, however, there is no simple way to outline to injustice that has been done. There are some 150 individual stories of hardship and sacrifice to be told. A fair sampling of the White Sands ranchers--those who survived after more than 40 years of unfairness--is here today. They will tell their stories and while you listen you will need to remember that these are Americans. They are patriotic Americans who did not hesitate to support the war effort. They are Americans who are not seeking charity or a handout. They are simply Americans who cling to the hope that someday their government will do what's just. We hope that day will come soon. Thank you very much.

Senator DOMENICI. Thank you very much, Congressman Skeen.

Our first witness will be Harold Furman, Deputy Assistant Secratary for Land and Water Resources, Department of the Interior; William Cronin, Chief, Legislative Service Office, Directorate of Real Estate, Office of Chief of Engineers, Department of the Army, Washington, D.C.

We will make your entire statement a part of the record.

Senator Hecht, would you mind taking the Chair for a minute please. Let me say to the witnesses and particularly to the New Mexicans who are here, I am going to go to the floor. My Aamodt amendment is up again, to provide some assistance for the non-Indian water users in the north. I have asked Senator Bingaman if he would relieve me down there in a little while.

We have a Senator that insists that we vote on that issue again. We have voted three times and won every time with Senator Bingaman's help. We won 69 to 20 and 58 to 15, but they are making us vote again. So I will go down for a little bit, and I will be right back.

Senator HECHT [presiding]. Mr. Furman, it is nice to see you.

STATEMENT OF HAROLD W. FURMAN, DEPUTY ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR

Mr. FURMAN. Mr. Chairman, Senator Bingaman, it is a pleasure to be here today.

I appreciate the opportunity to appear before the subcommittee today to discuss the Department of the Interior's involvement in the acquisition by the Department of the Army of the White Sands Missile Range and the McGregor Range in New Mexico.

The initial acquisitions of the private lands within the White Sands Missile Range took place, as has been indicated here previously, in the 1940's. The Army's holdings at the range have been increased and consolidated as a result of numerous acquisitions of State and private lands since that time and two public lands withdrawals that occurred in 1952 and 1955.

The Department of the Interior provided limited assistance to the Department of the Army in the initial acquisitions. More specifically, the Grazing Service advised the Army as to the values of those public lands in the proposed acquisition area that were being used for grazing under licenses and permits that the Federal Grazing Service had issued.

The Grazing Service was the range management agency which, with the General Land Office, later became the Bureau of Land Management in 1946. The Grazing Service also assisted the Army by canceling the grazing licenses and permits on those lands. The letters to the graziers gave as the reason for the cancellation the War Department's intended use of the lands as a bombing range, but did not discuss compensation. We have no information within the Department of the Interior about how compensation was to be determined.

During the mid- and late 1960's approximately eight exchanges involving State lands within the range were made. In addition, in 1967 there was one private exchange involving 320 acres. The

Bureau of Land Management handled appraisals of both the offered and selected lands involved in the exchanges.

The McGregor Range comprises approximately 697,000 acres of land, including 608,000 acres of public land. The public lands were originally withdrawn in 1957 by two public land orders. BLM gave the Corps of Engineers information concerning range improvements on the public lands, the livestock grazing capacity of the lands, as well as the carrying capacity of portions of the range which split a base water service area.

It is our understanding that the Army acquired some of the base property on which grazing privileges were predicated. On receiving copies of deeds showing that the Army had purchased the base properties on a grazing allotment, BLM cancelled the grazing privileges on the public lands.

Ever since the withdrawal of the McGregor Range, lands within the range have been used for livestock grazing under a memorandum of agreement between the Army and BLM.

In summary, Mr. Chairman, the role of the Grazing Service and the Bureau of Land Management in the acquisition of both the White Sands Missile Range and the McGregor Range involved the withdrawing of public lands, providing technical assistance in exchanging lands and assessing either land values or carrying capacities and cancelling grazing privileges that had been granted on the public lands that were incorporated into the range.

I would be happy to answer any questions that you may have.

Senator HECHT. Mr. Furman, for the record, since the chairman is not here and Senator Domenici is not here, can you provide the details of the appraisals of lands involved in exchanges?

Mr. FURMAN. Mr. Chairman, we can provide what values we have. The information we have is very sketchy. We will be happy to provide all that we have. It is going to require a search through our archives to find that information, but we will be happy to provide it to the committee.

Senator HECHT. Would you provide that information for the record please?

Mr. FURMAN. Yes, sir.

[The information follows:]

Several land exchanges completed in the 1960's involved State of New Mexico land located within White Sands Missile Range and public lands outside of the range that were administered by the Bureau of Land Management.

The appraisal of the involved lands was made on the basis of the Market Data Approach. Under that approach, appraisers used sales of lands in the general vicinity of the White Sands Missile Range that were comparable to those lands proposed for exchange. The sales prices were adjusted to compensate for differences in the properties, escalation or de-escalation of land values, etc., to determine the value of the lands proposed for exchange.

Senator HECHT. No. 2, can you provide the methods BLM used in arriving at the carrying capacity?

Mr. FURMAN. The carrying capacities were established in a variety of ways, Senator. The range surveys completed by the Grazing Service in 1934 resulted in the establishment of one set of carrying capacities. However, in some cases the grazing advisory board negotiated annual carrying capacities that were different from those that were based on the range survey.

Furthermore, permits and leases, issued for 10-year periods, specified different carrying capacities. The actual carrying capacities of all of the various allotments cannot be determined, again because the case files are no longer in our office, but may be in the archives. Because we do not have an accurate list of the permittees at the beginning of both the withdrawal periods, such lists, if they are available, would facilitate the retrieval of the files from our archives.

Senator **Hecht**. Senator Bingaman, do you have any questions?

Senator **Bingaman**. Let me just ask, how many ranches are involved still as you understand it based on your information where there are still questions as to the accuracy of the settlement?

Mr. **Furman**. Senator, I do not have a specific number offhand. To my knowledge, the question exists on all of the White Sands lands and it is apparently because of the change in the law that occurred between the time of the White Sands withdrawal and the McGregor Range withdrawal. That is not a question with regard to the McGregor Range, but I will be happy to get the exact number and provide it to the committee.

[The information follows:]

The Department of the Interior has not been directly involved in the White Sands Missile Range acquisition settlement issue. As a result, we do not know how many of the former permittees and licensees have requested additional compensation from the Department of the Army.

Senator **Hecht**. Later on in the afternoon, there will be panels with different questions, so any questions we will submit to you for the record and your answer.

Mr. **Furman**. We would be happy to provide any answers to written questions that you may wish.

Senator **Hecht**. Mr. Cronin, we are anxious to hear from you. Mr. Cronin is Chief, Legislative Service Office, Directorate of Real Estate, Office of Chief of Engineers, Department of the Army in Washington, D.C.

STATEMENT OF WILLIAM J. CRONIN, CHIEF, LEGISLATIVE SERVICES OFFICE, DIRECTORATE OF REAL ESTATE, OFFICE, CHIEF OF ENGINEERS, DEPARTMENT OF THE ARMY

Mr. **Cronin**. Thank you, Mr. Chairman. I was designated to represent the Department of the Army here today to review the history of acquisition and the procedures used to acquire lands for the White Sands Missile Range and the McGregor Range in New Mexico.

The White Sands Missile Range, a national missile range, is used in the research, development, and testing of guided missiles and other weapons systems. It serves as both a launch and impact area for various types of missiles. The range has been under the continuous and exclusive use of the United States since the 1940's.

The White Sands Missile Range proper comprises an area of roughly 100 miles in length, north to south, and 40 miles in width, east to west. Prior to 1975, the range consisted of approximately 1.5 million acres of land withdrawn from the public domain, 341,000 acres of State-owned land and 72,000 acres of privately owned land.

In addition to the above, there are three couse or evacuation areas adjacent to the exclusive use portion, one to the north known as White Sands Missile Range extension area, and two to the west. These three areas comprise some 1.75 million acres. They are not owned in fee. We have rights to require evacuation during actual firing, which takes place approximately 18 to 20 times a year on an average.

Parts of the range have been used by the Army since 1942 and additional areas were included in 1949. The couse areas were added at various times between 1958 and 1968.

When the Government began to use the range in 1942, practically all of the land was included in approximately 50 large ranching units. Typically, these ranch units consisted of a small amount of privately owned land, together with larger tracts of land leased from the State of New Mexico and public domain land used by the ranchers under permits or licenses issued by the Department of the Interior, Bureau of Land Management pursuant to the Taylor Grazing Act.

In 1942, there was no legal basis for compensating the ranchers for the use of the public domain land for which they had grazing permits. However, section 315(q) was added to title 43 of the code to authorize the agency to pay for losses suffered from cancellation of the grazing permits. Under this provision payments were made based upon the agency head's determination of losses suffered by the holders of grazing permits and such payments are deemed payment in full.

Until June 30, 1970, the Government paid compensation to the ranchers pursuant to lease and suspension agreements. These are defined as being leases of land owned by the individual rancher, leases of State-owned and a suspension of the rights of the rancher to use the grazing permit lands.

The ranches were compensated for the use of all the land in the ranching units, including the permitted Federal lands. The public domain land had been withdrawn from public use for military purposes before the lease and suspension agreements expired on June 30, 1970. It was then determined that the losses suffered by the holders of the grazing permits on public domain land as a result of the withdrawal had been fully compensated for and that in renewal leases no further payment for loss of use of public domain land would be made.

On March 27, 1970, the ranchers were advised of the requirement for continued use of the range by the United States and of the plan for renewing the leases. A public meeting was then held to explain the Army position.

At this meeting, the ranchers were advised that leases of privately owned and State-owned land would be negotiated based on excluding payments for public domain land. Payments for leases of privately owned land would be based on an appraisal of current, that is 1970, fair market rental value. Leaseholds would be continued on the State-owned lands, based upon the appraised fair market rental value of such lands, but the distribution of this rental compensation would be between the State and the lessees.

Payments would also be made for restoration of improvements for the expiring leases of the privately owned land.

In essence, this meant the ranchers and other land owners would be paid for two things, restoration of improvements to private land under the existing leases and for continued use of private and State lands.

Due to the adverse reaction of the ranchers to the decision, it was not possible to negotiate voluntary lease agreements. Consequently, leasehold condemnation cases were filed in the U.S. District Court for the period July 1, 1970 through June 30, 1971, renewable annually through June 30, 1980. The primary issue in these cases was just compensation for a leasehold interest being acquired.

Prior to 1974, the Department of the Army attempted to obtain authority to acquire fee title to the privately owned and State-owned land within the exclusive use area. Under the authority of the Military Construction Authorization Act of 1974 and the Military Construction Appropriations Acts of 1974 and 1980, all of the privately owned lands have now been acquired.

Despite the fact that the Government's leaseholds were for exclusive use, the State Commissioner of Public Lands continued to issue grazing leases to individual ranchers on 311,000 acres of the State-owned land. The rental compensation for the Government's leaseholds were shared with the individual ranchers by the State.

In 1979 a suit was filed in the U.S. Court of Claims by the State Commissioner of Public Lands and the majority of the State's grazing lessees, who contended that the Government's use of the land, under continuing leaseholds for the indefinite period, constituted a taking of the land for which the petitioners should receive just compensation.

In 1981 the Court determined that there was a taking and that the owners are entitled to receive just compensation. The case was remanded for further testimony to determine the date of the taking and for a determination of the fair market value on that date.

Army records show that as of July 1, 1983, a payment in the sum of $17,386,000 has been made to the ranchers, which includes rental payments, payments for damages to improvements, compensation for fee acquisition of the lands. Additional payments to the State, in addition to that which went to the State's lessees, payments for extinguishment of mining claims and for fee acquisition of nonranch lands, total an additional $3,140,000.

That concludes my statement on White Sands, Mr. Chairman.

As to McGregor Range, which is a part of Fort Bliss, and McGregor Range immediately adjoins White Sands Missile Range on the southeast, the property is located in Otero County, N. Mex. The range comprises some 697,000 acres of land which were in private ownership, in State ownership or were public domain lands.

Use of portions of the McGregor Range was initiated in 1949 through voluntary lease, leasehold condemnation, and lease and suspension agreements.

Fee title to the entire McGregor Range was acquired in 1956. Compensation was based on the carrying capacity and the cow year long value for entire ranch units, which included patented, State-owned and public domain lands.

As noted in the case of White Sands Missile Range, at the time of acquisition of the privately own land in McGregor Range, there was no legal authority to pay compensation for the federally owned public domain land, other than section 315(q) of the Taylor Grazing Act. Accordingly, the Secretary of the Army exercising his administrative discretion under this section provided for the compensation to the holders of grazing permits for losses sustained through a one-time payment based upon the carrying capacity of the grazing land.

This concludes my prepared statement, Mr. Chairman.

[The prepared statement of Mr. Cronin follows:]

STATEMENT

BY

WILLIAM J. CRONIN

CHIEF, LEGISLATIVE SERVICES OFFICE

DIRECTORATE OF REAL ESTATE

OFFICE, CHIEF OF ENGINEERS, DEPARTMENT OF THE ARMY

ON

PROCEDURES FOLLOWED BY THE
DEPARTMENT OF THE ARMY AND THE
ARMY CORPS OF ENGINEERS IN ACQUIRING
LANDS FOR THE WHITE SANDS MISSILE RANGE
AND FOR THE MCGREGOR RANGE
IN NEW MEXICO

BEFORE

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
FIRST SESSION, 98TH CONGRESS

15 NOVEMBER 1983

Not for publication until released
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and Reserved Water, Committee on
Energy and Natural Resources,
United States Senate.

Good morning Mr. Chairman and members of the Subcommittee. I am William J. Cronin, Chief of Legislative Services Office, Directorate of Real Estate, Office of the Chief of Engineers, Department of the Army. I have been designated to represent the Department of the Army at this hearing to review the history of acquisition and procedures used to acquire lands for the White Sands Missile Range and McGregor Range, New Mexico.

WHITE SANDS MISSILE RANGE

The White Sands Missile Range (WSMR), a National Missile Range, is utilized jointly by the Army, Navy, Air Force, and other agencies. The Range is used in the research, development and testing of guided missiles and other weapons systems. It serves as both a launch and impact area for various types of missiles. The Range has been under the continuous and exclusive use of the United States since the 1940s.

The White Sands Missile Range is comprised of 2,019,076 acres of land - an area roughly 100 miles in length and 40 miles in width. Prior to 1975, the Range consisted of 1,462,452 acres of land withdrawn from the public domain, 341,308 acres of State-owned land, and 71,905 acres of privately-owned land. In addition to the above, there are three co-use (evacuation) areas adjacent to the exclusive use portion, comprising some 1,740.916 acres, from which the occupants are required to evacuate on occasions when WSMR schedules an actual firing exercise.

Parts of the Range have been used by the United States since 1942 and additional areas were included in 1949. The co-use areas were added at various times between 1958 and 1968. The co-use (evacuation) areas are safety areas which are subject to evacuation by the occupants.

When the Government began to use the Range, practically all of the land was included in approximately 50 large ranching units. Typically, these ranch units consisted of a small amount of privately-owned land, together with larger tracts of land leased from the State of New Mexico and public domain land used by the ranchers under permits or licenses issued by the Department of the Interior, Bureau of Land Management pursuant to the Taylor Grazing Act (43 U.S.C. sec. 315 *et seq.*).

Until June 30, 1970, the Government paid compensation to the ranchers pursuant to Lease and Suspension Agreements. The ranchers were compensated for the use of *all* of the land in their ranching units, including the permitted Federal lands. These payments were made pursuant to 43 United States Code section 315q, which was enacted in 1942.

In 1942, there was no legal basis for compensating the ranchers for the use of the public domain land for which they had grazing permits. Section 315q was added to authorize the agency to pay for losses suffered from cancellation of the grazing permits. The essence of this provision is that the payments are made based on the agency head's determination of losses and that such payment is deemed payment in full.

The public domain land had been withdrawn from public use for military purposes before the Lease and Suspension Agreements expired on June 30, 1970. It was then determined that the losses suffered by the holders of the grazing permits on public domain land as a result of the withdrawal had been fully compensated for and that no further payment would be made.

The reason for this determination was that in as much as the Federal courts had held that grazing permits issued on public domain land do not create a right, title, or interest in land, therefore, there was no legal basis for the continued payment of compensation for the use of Federally-owned former public domain land, as any obligation for payments on such land under section 315q had been fully satisfied by the annual payments made from 1942 through 1970.

On March 27, 1970, the ranchers were advised of the requirement for continued use of the Range by the United States and of the plan for renewing the leases. A public meeting was then held to explain the Army position.

At this meeting, the ranchers were advised that:

- leases would be negotiated based on excluding payments for public domain land;
- payments for leases of privately-owned land would be based on an appraisal of current fair market rental value;
- leaseholds would be continued on the State-owned lands, based upon the appraised fair market rental value of such lands, but the distribution of this rental compensation would be a matter of agreement between the State and its lessees.

- payments would also be made for restoration of improvements for the (at that time) expiring leases of the privately-owned land.

In essence, this meant the ranchers and other landowners would be paid for two things - restoration of improvements to private land under the existing leases, and for continued use of private and State lands.

Due to the adverse reaction of the ranchers to the Army's decision, it was not possible to negotiate voluntary lease agreements. Consequently, leasehold condemnation cases were filed in the U. S. District Court for the period July 1, 1970 through June 30, 1971, renewable annually through June 30, 1980. The primary issue in these cases was just compensation for the leasehold.

Prior to 1974, the Department of the Army attempted to obtain authority to acquire fee title to the privately-owned and State-owned land within the exclusive use area. Under the authority of the Military Construction Authorization Act, 1974, and the Military Construction Appropriation Acts of 1974 and 1980, all of the privately-owned lands have now been acquired.

As described above, the leases on the land owned by the State of New Mexico were continued for the period June 30, 1970 until recently. Despite the fact that the Government's leaseholds were for exclusive use, the State Commissioner of Public Lands continued to issue grazing leases to individual ranchers on 310,445 acres of this State-owned land. The rental compensation for the Government's leaseholds were shared with the individual ranchers by the State.

In 1979, a suit was filed in the U. S. Court of Claims by the State Commissioner of Public Lands and 86 other plaintiffs, the majority of the State's grazing lessees, who contended that the Government's use of the land, under continuing leaseholds for the indefinite period, constituted a taking of the land for which the petitioners should receive just compensation. The Court, in a 1981 opinion, determined that there was a taking and that the owners are entitled to receive just compensation. The case was remanded for further testimony to determine the date of the taking, and for a determination of the fair market value on that date. Alex J. Armijo, et al. v. U.S., 633 F.2d 90 (1981).

Army records show, as of July 1, 1983, payment of $17,386,000 to the ranchers. This amount includes rental payments, payments for damages to improvements, and compensation for fee acquisition of the lands. Additional payments to the State, in addition to that which went to the State's lessees; for extinguishment of mining claims, and for fee acquisition of non-ranch lands, total $3,140,645. A tabulation is as follows:

	1942-70	1970-83
Rent (fee-owned, State and Federal)	$ 7,790,000	
Rent (privately owned)		$ 419,000
Rent (State-owned, 3rd party lessees)		2,646,000
Rent (State of Mexico)		1,022,000
Damages to Improvements	2,242,000	
Extinguishment of Mining Claims		713,888
Fee Acquisition (ranch lands)		4,289,000
Fee Acquisition (non-ranch lands)		1,404,757
TOTAL	$10,032,000	$10,494,645
GRAND TOTAL		$20,526,645

MCGREGOR RANGE (FORT BLISS)

McGregor Range, a part of the Fort Bliss Military Installation, is located in Otero County, New Mexico. The Range comprises 697,472 acres of land which were in private ownership, in State ownership, or were public domain lands. Use of portions of McGregor Range was initiated in 1949 through voluntary lease, leasehold condemnation, and Lease and Suspension Agreements. The use of the public domain land was authorized under a Special Use Permit from the Department of the Interior, Bureau of Land Management.

Fee title to the McGregor Range was acquired in 1956. Compensation was based on the carrying capacity and cow year long (CYL) value for entire ranch units, and patented, State-owned and public domain lands were included in a ranch unit.

As noted in the case of White Sands Missile Range, at the time of acquisition of the privately-owned land in McGregor Range, there was no legal authority to pay compensation for the Federally-owned public domain land, other than section 315q of the Taylor Grazing Act. The courts have held that grazing permits issued under the Taylor Grazing Act confer a mere privilege to graze livestock which can be withdrawn by the United States without payment of compensation. Accordingly, the Secretary of the Army exercised his administrative discretion under this section, to compensate the holders of grazing permits for "losses sustained" through a one-time payment based upon the carrying capacity of the grazing land.

This concludes my prepared statement, Mr. Chairman.

Senator HECHT. Thank you, Mr. Cronin. On page 3 of your testimony, you stated that the Army then determined that the losses had been fully compensated for. How did you make that determination?

Mr. CRONIN. In 1970, Mr. Chairman, let us go back to 1950, which was the initiation period of the lease and suspension agreements which were for the period of 20 years, some them were entered in 1949 and some in 1950. They expired in 1969 and 1970, but at the time those agreements were entered into the grazing permits for the public domain land were in effect.

The withdrawals of the public domain land were not consummated until 1952. Therefore, we continued to honor the agreements that we had made with the ranches on the leasing and suspension agreements to pay them the full rental value for the use of the property, including the suspension of their rights to graze.

In 1970, or by 1970, all of the grazing permits had expired. The lease and suspension agreements were at the point of termination and the determination was made that there was nothing more for which to compensate under the lease and suspension agreements that previously had been in effect insofar as the grazing lands were concerned.

Senator HECHT. Can you provide a detailed report of the payment list on page 5 of your testimony please, including who received the payments, when, the purpose, et cetera?

Mr. CRONIN. I would be happy to do so, Mr. Chairman.

Senator HECHT. On page 4 of your testimony you state that leasehold condemnation cases were filed in the U.S. District Court. How many and how were they resolved?

Mr. CRONIN. For the record, all condemnation cases have been resolved either by settlement or reward.

Senator HECHT. One last question, would you advocate turning all of the land back to the ranchers and moving the White Sands Range to another site?

Senator BINGAMAN. I think you are changing the subject of this hearing, Senator Hecht. I do not have any questions. I am anxious to hear the other witnesses. Thank you very much for your testimony. I appreciate it.

Mr. CRONIN. You are welcome, Senator.

[Subsequent to the hearing the subcommittee received the following information:]

DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310

Official Committee File

17 JAN 1984

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ENERG. .SOURCES
RECEIVED
JAN 19 1984

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Reference is made to the hearing of November 15, 1983 before the Subcommittee on Public Lands and Reserved Water, Senate Committee on Energy and Natural Resources. During the hearing, you requested additional information with regard to payments made to landowners by the Department of the Army for property acquired in connection with the White Sands Missile Range, New Mexico.

Enclosed is a chart which outlines the payments made, by ownership, from 1942 to October 1, 1983. The figures are based on the best information available as records of some payments made during World War II no longer exist. Payments for fee title (Column A), leasehold interests (Column B), and improvements (Column C) are shown. The total for payments under Columns A, B and C is shown in Column D.

Prior to the acquisition of fee title to lands within the White Sands Missile Range, it was necessary at various times to acquire leasehold interests in both State and privately-owned properties. Voluntary leases were entered into by most of the owners before 1970. From 1942 until 1970, the Government also paid compensation for withdrawn public domain lands used by the owners under permits issued by the Department of the Interior, Bureau of Land Management pursuant to the Taylor Grazing Act (43 U.S.C. section 315). Ultimately, it was determined that the former holders of grazing permits had been fully compensated. The annual payments to permittees ceased after June 30, 1970.

Due to the adverse reaction of many owners after the cessation of payments for public domain lands in 1970, efforts by the Government to obtain voluntary leases were seriously hampered. The filing of leasehold condemnation proceedings became necessary. We have set forth specific information as to these proceedings on the chart for your further information.

Leasehold condemnation cases were filed against 64 ownerships. Nine cases proceeded to trial before a land condemnation commission, three of which were settled after a successful appeal by the Government in each case. The 55 remaining ownerships settled prior to trial. The annual rental figures either agreed to by the parties or awarded by the commission are provided.

Column B on the chart includes the sum of the rental payments made for the voluntary leasing of private and State-owned lands, compensation for withdrawn public domain lands paid prior to 1970 and leasehold condemnation settlement amounts and awards.

In addition to the payments reflected on the chart, approximately $1,022,000 has been paid to the State of New Mexico for lands it did not lease to third parties. Accordingly, as of October 1, 1983, existing records indicate a total of $20,754,846 in payments.

Sincerely,

Paul W. Johnson

Paul W. Johnson
Deputy Assistant Secretary of the Army
(Installations & Housing)
OASA(IL&FM)

Enclosure

PAYMENTS MADE BY THE DEPARTMENT OF THE ARMY
AT WHITE SANDS MISSILE RANGE
BY OWNERSHIP (1942-1983)

OWNER	(A) Payment For Fee	(B) Leasehold Payments[1]	LEASEHOLD CONDEMNATIONS					(C) Separate Payments for Improvements	(D) TOTAL
			Private Acres	State-Owned Acres	Annual Rental[2] (Included under B)	Settled by Parties	Court Award		
1. Aguilar, Pete	$ 9,675.00	$ 18,045.03	77.40	0	$ 100.00	X		$ 1,782.00	$ 29,502.03
2. Baca, Barbarita	103,306.00	45,659.84	800.00	160.00	362.50	X		23,621.50	172,587.34
3. Black Hills Ranch	198,610.00	249,097.15	3,587.83	3,320.00	6,102.50	X		31,451.00	479,158.15
4. Bradford, Vivian	0	0						19,305.00	19,305.00
5. Bruton, Allene	25,600.00	62,164.00	640.00	640.00	880.00	X		9,319.00	97,083.00
6. Bursum, H. O., et al.	475,000.00	930,964.82	6,570.27	30,832.35	26,124.83	X		185,575.00	1,591,539.82
7. Cain, E. Lois	136,350.00	133,328.24						80,918.00	350,596.24
8. Cain, Leonard	41,005.06	448,973.26	640.0	14,725.11	9,732.50	X		75,248.00	565,226.32
9. Clayton, Vera	76,383.00	7,556.81						15.00	83,954.81
10. Cox, Hal R.	196,075.00	246,469.88	3,081.85	1,296.09	5,765.27	X		109,470.00	552,014.88
11. Crockett, F. O.	0	89,761.26	0	1,660.03	1,143.75	X		52,600.00	142,361.26
12. Crockett, Lloyd	0	138,596.88	0	2,882.49	1,587.50	X		53,277.00	191,873.88
13. Danley, Meldene G.	140,000.00	279,710.62	2,125.29	4,481.86	5,050.00	X		51,967.00	471,677.62
14. Danley, Osie	85,000.00	106,123.70	562.29	640.00	756.25	X		11,345.00	202,468.70
15. Dappen, Robert	102,000.00	5,367.41						350.00	107,717.41
16. Dayberry, Ralph T.	100,000.00	40,647.28	1,720.00	640.00	1,530.00	X		21,301.00	161,948.28
17. Degman, Eva H. W.	0	4,000.00	0	800.00	400.00	X		0	4,000.00

OWNER	(A) Payment For Fee	(B) Leasehold Payments[1]	LEASEHOLD CONDEMNATIONS					(C) Separate Payments for Improvements	(D) TOTAL
			Private Acres	State-Owned Acres	Annual Rental[2] (Included under B)	Settled by Parties	Court Award		
18. DIZ Livestock Co.	$ 10,000.00	$ 265,293.90	156.72	7,711.03	$ 3,900.00	X		$ 56,865.00	$ 332,158.90
19. Dosing, George	600.00	90.00						0	690.00
20. Dosing, Margaret	0	450.00	3.00	0	45.00	X		0	450.00
21. Fite, William D.	0	1,600.00	320.00	0	160.00	X		0	1,600.00
22. Foster, Claude	0	102,973.00	0	1,295.92	1,312.50	X		24,000.00	126,973.00
23. Fraley, Betty, et al.	0	89,151.64	0	636.81	881.25	X		40,624.50	129,776.14
24. Gallegos, Lupita R.	31,200.00	8,823.62						0	40,023.62
25. Gardenhire, Montie	112,900.00	38,633.54						4,000.00	155,533.54
26. Gaume, Anna Lee (Bruton, Ella)	18,000.00	254,364.62	450.68	4,137.67	2,907.67	X		81,998.00	354,362.62
27. Gilbert, Jesse R.	5,000.00	557.70						0	5,557.70
28. Gililland, Genevra W.	30,646.00	153,509.82	854.33	3,232.54	3,368.75	X		26,144.00	210,299.82
29. Greer, Allie	65,714.00	103,923.50	1,997.22	1,280.00	1,946.25	X		9,850.00	179,487.50
30. Groom, Earlie	7,725.00	357.37						0	8,082.37
31. Guillon, Jesse	13,335.00	300.00						0	13,635.00
32. Hammett, Beth G.	0	500.00	40.00	0	50.00	X		0	500.00
33. Hanna, Ralph (MINERAL OWNER[3])	300.00	0						0	300.00
34. Hardin, Lois	0	30,800.00	2,560.00	2,084.32	3,080.00	X		0	30,800.00

	(A)	(B)	LEASEHOLD CONDEMNATIONS					(C)	(D)
OWNER	Payment For Fee	Leasehold Payments[1]	Private Acres	State-Owned Acres	Annual Rental[2] (Included under B)	Settled by Parties	Court Award	Separate Payments for Improvements	TOTAL
35. Harriet, Michel	$ 280,156.00	$ 924,719.14	1,838.71	33,571.78	$ 23,328.55	X		$ 143,129.00	$1,348,004.14
36. Harvey Investment Co.	0	0						4,858.00	4,858.00
37. Hatcher, Thelma	17,950.00	472.00						0	18,422.00
38. Headon, Charles	25,134.00	1,880.00						0	27,014.00
39. Hearn, Frances A.	45,650.00	70,227.94						12,000.00	127,877.94
40. Helms, Arthur D.	60,600.00	104,834.48	1,438.36	856.70	1,797.50	X		30,250.00	195,684.48
41. Henderson, Andy	80,000.00	256,092.95	2,876.04	3,837.56	4,523.75	X		51,233.00	387,325.95
42. Henderson, Myrtle A.	40,250.00	210,583.30	1,232.07	3,122.82	4,187.50	X		26,325.00	277,158.30
43. Henderson, Roy L.	1,600.00	33,081.17	40.00	640.00	478.75	X		6,332.00	41,013.17
44. Hobson, Phillip F., et al (MINERAL OWNER[3])	1,150.00	0						0	1,150.00
45. Horne, A. M., Estate	18,000.00	480.00						0	18,480.00
46. Insall, Frances	13,000.00	400.00						0	13,400.00
47. Irvin, Tracy	10,000.00	375.80	20.00	0	25.00	X		0	10,375.80
48. Isaacks, Jefferson J.	0	21,802.68	0	1,235.16	693.75	X		6,868.00	28,670.68
49. Isaacks, Robert L.	109,992.52	43,119.64						15,939.00	169,051.16
50. Johnson, J. C.	0	1,550.00	119.52	0	154.96	X		0	1,550.00
51. King, Louise K.	54,200.00	3,682.03						190.00	58,072.03

OWNER	(A) Payment For Fee	(B) Leasehold Payments[1]	LEASEHOLD CONDEMNATIONS					(C) Separate Payments for Improvements	(D) TOTAL
			Private Acres	State-Owned Acres	Annual Rental[2] (Included under B)	Settled by Parties	Court Award		
52. (MINERAL OWNER[3]) Kircher, Raymond J., et al	$ 1,400.00	0						0	$ 1,400.00
53. Lewis, Helen E.	24,000.00	$ 24,483.10						$ 2,277.00	50,760.10
54. Love, A. F.	8,600.00	118,547.30	172.85	1,921.40	$ 1,440.71	X		51,113.00	178,260.30
55. Love, Robert L.	15,600.00	480.00						0	16,080.00
56. Marschall, John H.	104,990.00	5,486.50						180.00	110,656.50
57. (Martin, Georgia, Estate) Martin, Willard F.	10,830.00	191,316.70	180.43	4,996.85	3,932.61	X		42,743.00	244,889.70
58. McDonald, Carmen	160,000.00	197,686.23	640.00	4,468.34	6,165.00		X	4,000.00	361,686.23
59. McDonald, Dave	160,000.00	252,747.04	640.00	0	6,165.00		X	1,000.00	413,747.04
60. (McMurray, Kathryn, Ex.) McDonald, Laura	16,600.00	423,870.75	473.79	9,362.57	5,793.70	X		65,110.00	505,580.75
61. McFarland, Helen	34,400.00	1,316.67	80.00	0	80.00	X		0	35,716.87
62. McKinley, Laura	3,000.00	283,355.10	80.00	6,422.43	4,062.50	X		63,194.00	349,549.10
63. McKinley, Weldon	0	53,930.96	0	1,280.00	960.00	X		7,620.00	61,550.96
64. Middleton, Gayle	38,000.00	199,705.26	1,000.00	3,678.32	3,197.50	X		35,551.25	273,256.51
65. Moates, Wayland	49,500.00	1,650.00						0	51,150.00
66. Morris, H. O.	1,205.91	4,042.79						0	5,248.70
67. Moss, William	0	3,800.00						1,890.00	5,690.00
68. N. M. Property Appr. Dept.	0	1,880.00	629.79	0	188.00	X		0	1,880.00

	(A)	(B)	LEASEHOLD CONDEMNATIONS					(C)	(D)
OWNER	Payment For Fee	Leasehold Payments[1]	Private Acres	State-Owned Acres	Annual Rental[2] (Included under B)	Settled by Parties	Court Award	Separate Payments for Improvements	TOTAL
69. Oliver, G. B.	$ 53,984.00	$ 81,637.19	640.00	2,917.88	$ 1,781.25	X		$ 30,947.00	$ 166,568.19
70. Owens, Kenneth H. (MINERAL OWNER[3])	175.00	1,650.00	220.00	0	165.00	X		0	1,825.00
71. Parchman, Wilma	15,600.00	480.00						0	16,080.00
72. Patten, Andrew M., Estate (MINERAL OWNER[3])	1,504.00	0						0	1,504.00
73. Potter, Mellie	76,400.00	97,411.87	2,158.12	313.71	1,157.50	X		60,634.00	234,445.87
74. Pratt, Yukola H.	0	480.00	40.00	0	48.00	X		0	480.00
75. Quesenberry, Geo. R.	27,150.00	87,542.34	718.60	2,642.73	1,442.15	X		52,101.00	166,793.34
76. Ray, Walter	35,000.00	800.00						0	35,800.00
77. Ritch, William G.	39,500.00	357,639.13	758.29	14,955.23	12,137.00		X	7,300.00	404,439.13
78. Ritch, Winnie	29,500.00	11,600.00						1,305.00	42,405.00
79. Robertson, Lupe B.	0	2,935.38						0	2,935.38
80. Rogers, Len M. (MINERAL OWNER[3])	1,100.00	0						0	1,100.00
81. Sanders, Genevieve	67,431.00	212,524.54	1,520.00	5,884.43	3,630.00	X		74,162.00	354,117.54
82. Shores, Henry	330,000.00	161,867.61	640.00	0	8,736.00		X	28,000.00	519,867.61
83. Sidwell, George B. (MINERAL OWNER[3])	801.00	1,400.00						0	2,201.00
84. Skimore, Frank S. (MINERAL OWNER[3])	400.00	0						0	400.00
85. Slates, Burton R.	20,000.00	500.00						0	20,500.00

	(A)	(B)	LEASEHOLD CONDEMNATIONS					(C)	(D)
OWNER	Payment For Fee	Leasehold Payments[1]	Private Acres	State-Owned Acres	Annual Rental[2] (Included under B)	Settled by Parties	Court Award	Separate Payments for Improvements	TOTAL
86. Smith, Clay L.	$ 20,006.20	$ 48,310.75	638.90	640.00	$ 718.75	X		$ 13,443.00	$ 81,759.95
87. Smith, Dwight (MINERAL OWNER[3])	400.00	0						0	400.00
88. Smith, Robert M. (MINERAL OWNER[3])	2,500.00	4,592.00						0	7,092.00
89. Smith, William G.	18,500.00	**						0	18,500.00
90. Spence, Margaret	42,450.00	2,323.36						0	44,773.36
91. Spencer, Truman A.	675,000.00	1,482,170.33	10,153.17	111,425.73	45,017.40	X		191,884.00	2,349,054.33
92. State of New Mexico (MINERAL OWNER[3])	199,452.89	0						0	199,452.89
93. Story, Anna	28,440.00	183,295.20	800.00	960.00	1,690.00	X		44,629.00	256,364.20
94. Stuart, Edward	0	640.00	162.52	0	64.00		X	0	640.00
95. Terry, Vera E.	0	400.00	39.88	0	40.00	X		0	400.00
96. Tucker, Roy E.	36,240.58	51,175.50	798.82	479.02	881.25	X		12,700.00	100,116.08
97. Virden, Tilamae	31,850.00	4,155.24	636.23	0	250.00	X		1,680.00	37,685.24
98. Voyde, Lydia	44,000.00	2,013.05						0	46,013.05
99. Walters, Ann I.	0	36,600.00						7,032.00	43,632.00
100. Warner, Minnie	34,400.00	1,316.68						0	35,716.68
101. Williams, C. V. (Mrs.)	11,500.00	250.00	20.00	0	25.00	X		0	11,750.00
102. Wilson, Charles P.	40,000.00	5,415.22	100.00	0	202.50	X		180.00	45,595.22

** included under Isaacks, Robert L.

OWNER	(A) Payment For Fee	(B) Leasehold Payments[1]	LEASEHOLD CONDEMNATIONS Private Acres	State-Owned Acres	Annual Rental[2] (Included under B)	Settled by Parties	Court Award	(C) Separate Payments for Improvements	TOTAL
103. Withers, Estella E., et al.	$ 184,711.00	$ 337,067.92	4,126.67	3,708.56	$ 12,089.38		X	$ 88,728.00	$ 610,506.92
104. Withers, Ivan	29,440.00	0						0	29,440.00
105. Wood, Eva H.	0	35,044.00						8,085.00	43,129.00
106. Wood, H. A.	32,890.87	131,407.70	839.62	1,511.20	1,853.66	X		32,865.00	197,163.57
107. Wood, John H.	35,000.00	67,056.58	640.00	964.03	902.50	X		17,628.00	119,684.58
108. Wood, J. P.	75,000.00	109,608.97	1,360.00	1,283.58	1,528.75	X		45,290.00	229,898.97
109. Woolf, Dale	66,000.00	168,148.76	1,790.87	2,131.67	2,456.25	X		77,000.00	311,148.76
110. Wright, Paul	18,000.00	623.20	30.04	0	40.00	X		0	18,623.20

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[1] Includes the total of payments received per ownership under lease and suspension agreements covering public domain lands (circa 1942-1970), and payments made after 1970 by virtue of voluntary leases or court awards in leasehold condemnation cases of both private and state-owned lands. The figures include payments for the leasing or condemnation of minerals.

[2] Includes yearly rental payments for both the fee lands of the owner and lands available for leasing to the owner from the State of New Mexico.

[3] Payments made by ownership for minerals which have been severed and conveyed separately from the surface ownership.

ACQUIRED MINING CLAIMS

OWNER	Payment for Claim[4]	Separate Payments for Improvements	TOTAL
111. Beasley, Elsie, et al.	$ 1,000.00	$ 12,000.00	$ 13,000.00
112. Borhnstedt, Ethel	1,200.00	0	1,200.00
113. Castle, Martha, et al.	2,000.00	0	2,000.00
114. Cox, Hal R.	3,181.80	0	3,181.80
115. Emery, E. I., et al.	40,002.00	0	40,002.00
116. Eubank, Suzan, et al.	25,315.00	0	25,315.00
117. Gose, Mary Ellen, et al.	32,000.00	0	32,000.00
118. Griffith, W. E.	500.00	0	500.00
119. Haeberle, W. A., et al.	97,000.00	0	97,000.00
120. Hammer, W. L.. et al.	31,700.00	16,000.00	47,700.00
121. Harrison, Aime Schriner	67,200.00	0	67,200.00
122. Heuer, Robert, et al.	93,000.00	0	93,000.00
123. Jundt, Herman, et al.	5,800.00	11,600.00	17,400.00
124. Kalin, Thelma C., et al.	5,000.00	0	5,000.00
125. Koenig, Leo	3,500.00	0	3,500.00
126. Leach, Frances	2,425.00	10,750.00	13,175.00
127. McCowen, H. R., et al.	2,000.00	0	2,000.00
128. McDonald, J. T.	500.00	0	500.00
129. Miera, J. N. et al.	15,800.00	0	15,800.00
130. Mockingbird (McCasland) Mining Co.	149,600.00	0	149,600.00
131. Morris, H. O., et al.	750.00	0	750.00
132. Morrison, N. B.	1,875.00	0	1,875.00
133. Moseley, M., et al.	500.00	0	500.00
134. Ritch, Winnie M.	14,000.00	5,340.00	19,340.00
135. Russell, Ted R.	35,600.00	0	35,600.00
136. Shipley, Lorna M., et al.	2,160.00	0	2,160.00
137. Stevens, Margarette N.	8,000.00	0	8,000.00
138. Stone, George E.	5,840.00	0	5,840.00
139. Taylor, Jeffrey, et al.	10,000.00	0	10,000.00
140. Wood, H. A., et al.	1,250.00	0	1,250.00
	TOTAL OF ALL PAYMENTS		$19,732,846.22

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[4] Payments made for acquisition of both patented and unpatented mining claims.

WHITE SANDS MISSILE RANGE, NEW MEXICO

CONDEMNATION CASES PENDING AS OF 21 OCTOBER 1982

CIVIL NO.	OWNER	ACREAGE	TRACT NO.	DATE FILED	DEPOSIT
80-527-JB	BACA, Barbarita 1034 14th Street, Apt. 6 Santa Monica, CA 90403	800.0	506-1, 506-2	8 July 1980	$ 45,600
80-536-M	DANLEY, Meldene Green Tularosa, NM 88352	2,125.29	603-1 thru 603-5	9 July 1980	117,890
80-543-JB	GROOM, Earlie F., Unknown Heirs of Address Unknown	15.0	312	10 July 1980	7,725
* 81-830-HB	HAEBERLE, Frances M. c/o Thelma Kalin 458 Morro Bay Blvd. Morro Bay, CA 93442	16.32	OM-11	29 September 1981	97,000
* 80-709-C	HOBSON, Phillip Jackson, Executor of R.D. Champion, deceased 1508 Rockwood Alamogordo, NM 88310	340.0	Part of 308-1, 310	8 September 1980	1,150
80-538-C	HORNE, A.M., Estate of c/o Yukola Horne Pratt Meisenhelder 10333 Manzanita Drive Sun City, Arizona 85373	40.0	314	9 July 1980	18,000
80-522-C	ISAAKS, Robert L. Organ, NM 88052	121.98	102	8 July 1980	31,110

* Cases involving acquisition of all right, title and interest in any minerals.

CIVIL NO.	OWNER	ACREAGE	TRACT NO.	DATE FILED	DEPOSIT
* 81-931-HB	KALIN, Thelma C. 458 Morro Bay Blvd. Morro Bay, CA 93442	57.07	OM-59, OM-65, OM-91	10 November 1981	NONE
80-528-C	MARTIN, Willard Franklin 504 School of Mines Road Socorro, NM 87801	80.43	504	8 July 1980	$ 4,830
80-533-M	MARTIN, Willard Franklin 504 School of Mines Road Socorro, NM 87801	100.0	417	9 July 1980	5,500
* 80-770-HB	McCASLAND, Taylor T. 1717 Norfolk Lubbock, TX 79416	118.05	M-82, M-83, M-86, M-89, M-90, M-97	24 September 1980	62,000
* 81-786-HB	McCOWEN, Richard H. P.O. Box 538 Mesilla, NM 88046	15.55	OM-75	15 September 1981	2,000
80-521-JB	McDONALD, Carmine Audine 102 Cherry Avenue Tularosa, NM 88352	640.0	508	8 July 1980	30,400
80-523-JB	McDONALD, Dave 400 California Street Socorro, NM 87801	640.0	507	8 July 1980	35,200
* 81-803-HB	McDONALD, James T. P.O. Box 193 Onyx, CA 93255	20.66	M-8	22 September 1981	NONE
80-585-HB	McFARLAND, Robert J. 3621 Jewell Street San Diego, CA 92109	80.0	317	16 July 1980	34,400

* Cases involving acquisition of all right, title and interest in any minerals.

CIVIL NO.	OWNER	ACREAGE	TRACT NO.	DATE FILED	DEPOSIT
80-524-C	RITCH, William G. 1403 Cherry Avenue Tularosa, NM 88352	758.29	209, 329-1, 329-2, 329-3	8 July 1980	$ 39,500
80-540-JB	GALLEGOS, Lupita Rodriguez 3006 Mountain Avenue El Paso, TX 79930	80.0	307-1, 307-2	9 July 1980	31,200
* 81-775-HB	RUSSELL, Ted B. 620 Hillward Street Escondido, CA 92027	20.88	OM-18	11 September 1981	35,600
* 80-835-HB	SHIPLEY, Lorna M. 1405A Oregon Avenue Alamogordo, NM 88310	41.32	M-96, M-98	7 October 1980	2,160
81-583-HB	SHORES, Henry 705 Posey Lane Tulsarosa, NM 88352	640.0	401	22 July 1981	332,800
* 80-834-HB	SMITH, Robert M. 603 Indigo Street San Antonio, TX 78216	280.0	Part of Tract 308-1	6 October 1980	2,800
80-531-M	SMITH, William G. 1861 Newton Las Cruces, NM 88001	40.54	111	9 July 1980	10,335
80-535-C	SPENCE, Margaret S. 803 Riverside Drive Carlsbad, NM 88220	169.01	302	9 July 1980	42,250
80-534-JB	WARNER, Minnie 8354 Forest Haven El Paso, TX	80.0	316	9 July 1980	34,400

* Cases involving acquisition of all right, title and interest in any minerals.

CIVIL NO.	OWNER	ACREAGE	TRACT NO.	DATE FILED	DEPOSIT
80-539-M	WILLIAMS, Josephine, Unknown Heirs of; Delta R. McDowell 1565 So. Congress Street Apt. 28 Ypsilanti, MICH 48197	20.0	319	9 July 1980	$ 11,500
*	Emery, I. 3024 Douglas Ave El Paso, Texas 79903	108.30	OM-61, OM-93, OM-94		38,400
*	KOENIG, Mary Margaret Dickinson Route 1, Box 142 Deming, New Mexico 88030	17.227	OM-87		3,500

* Cases involving acquisition of all right, title and interest in any minerals.

Senator HECHT. Mr. Mitchell, will you come up please, Pat Maguire and Robert Parker. James Mitchell, Associate Director, General Government Division, General Accounting Office, Washington, D.C.; accompanied by Pat Maguire, Group Director, General Government Division, General Accounting Office, Washington, D.C.; and Robert Parker, Counsel, General Accounting Office, Washington, D.C.

Mr. Mitchell.

Senator BINGAMAN. Senator Hecht, before we hear the testimony, I just want to alert the people that in just a few moments, I am going to have to go the floor and help identify a few votes in this Aamodt case, but I will return as quickly as I can after that. So you go ahead with the testimony.

STATEMENT OF JAMES G. MITCHELL, ASSOCIATE DIRECTOR, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY PAT MAGUIRE, GROUP DIRECTOR, GENERAL GOVERNMENT DIVISION, AND ROBERT PARKER, COUNSEL

Mr. MITCHELL. Thank you, Mr. Chairman. I have a prepared statement I would like to read. Mr. Chairman, we are pleased to appear before this subcommittee to discuss the information we have developed regarding the Department of the Army's acquisition of lands for the White Sands Missile Range and for the McGregor Range, both located in New Mexico.

We originally obtained the information on the two land acquisitions to respond to two congressional requests. Regarding the acquisition of the White Sands Missile Range, in January 1983, we provided the chairman, Senate Committee on Governmental Affairs, with information on the 1970 termination of lease and suspension agreements, compensation for private property and compensation for State of New Mexico property.

In April 1983, we provided Congressman Joe Skeen with a fact sheet comparing the procedures followed by the Army in the acquisition of properties for the White Sands and McGregor ranges. In responding to the two congressional requests, it was difficult to develop complete and accurate information on the two land acquisitions, because these acquisitions started in the 1940s and only sketchy records are now available. However, I will highlight the information we developed in our prior work on the two acquisitions, beginning with the White Sands Missile Range.

The main part of the White Sands Missile Range is approximately 100 miles in length and 40 miles in width. The range initially consisted of about 1.5 million acres of Federal public domain land, 342,000 acres of State land, and 72,000 acres of privately owned lands. At the time the Army began to use the land in 1942, most of the land was divided into ranching units that were generally a combination of privately owned land, State-owned land leased by ranchers from New Mexico, and public domain land being used by ranchers under grazing permits or licenses issued by the Bureau of Land Management, pursuant to the Taylor Grazing Act.

Over the years, the Federal Government has withdrawn the public domain land from public use, terminated the grazing permits or licenses issued ranchers under the Taylor Grazing Act, and acquired the privately owned and State-owned properties. These actions were taken because the Federal Government needed the lands for national defense purposes.

The public domain land was withdrawn for the use of the then War Department as a bombing range by Executive order 9029 dated January 20, 1942. A short time thereafter, the Bureau of Land Management canceled or terminated all existing grazing permits.

In return for cancellation of permits or licenses when lands were withdrawn for war purposes, Public Law 77-663 dated July 9, 1942 provided for payment in such amounts as the head of the department or agency so using the lands shall determine to be fair and reasonable for losses suffered.

This brings me to the subject of compensation under lease and suspension agreements.

From 1942 until 1970, the Government paid compensation to the ranchers under the lease and suspension agreements. The leases applied to the private and State-owned lease lands and the suspension agreements applied to the termination or nonuse of the grazing permits or licenses issued under the Taylor Grazing Act.

For the period 1942 to 1950 appraisals were made by the Army and values established for entire ranch units based on cow-year-long carrying capacity. Rental payments made under the lease and suspension agreements were then calculated on the basis of the ranch value established by appraisal.

According to Corps officials in about 1950 the ranch units were reappraised using the cow-year-long carrying capacity basis and new rent rates established for lease and suspension agreements covering the period July 1, 1950 to June 30, 1970.

The suspension agreements expired in 1970 and were not renewed. The Army contended that the holders of Taylor Grazing Act permits were fully compensated for cancellation of the permits by payments on the suspension agreements. The U.S. Court of Claims concurred with the Army's position on the grazing permits. The court said that the compensation was not inadequate and that the plaintiffs were not in any way led to believe that they would receive additional sums for cancellation of the permits.

The Army initiated negotiations in 1970 for leasing the private and State lands for another 10 years. Some ranchers entered into voluntary leases. However, the Army obtained leasehold interests in the remaining ranching units through condemnation for a term of 1 year beginning July 1970 and ending June 1971, renewable for yearly terms until June 1980.

The fiscal year 1974 Military Construction Authorization Act and the Military Construction Appropriation Act provided the Army with the authority and funds to acquire title to privately owned lands. Additional funds were provided to the Army by the fiscal year 1980 Military Construction Appropriation Act to complete the acquisition of privately owned land and the discharge of mining claims. The Army acquired about 72,000 acres through voluntary agreements with the owners or through condemnation cases.

Concerning the State-owned lands under lease to the ranchers, a suit was filed on March 12, 1979 in the U.S. Court of Claims by the

Commissioner of Public Lands, New Mexico, and other plaintiffs who constituted the majority of the ranchers with state grazing leases.

The plaintiffs argued that since the Government intended to use the State-owned land indefinitely, the leaseholders should have received a lump sum payment covering their entire interests, rather than the year-by-year temporary payments which they received after 1970.

Although the Court of Claims agreed that the United States had taken about 270,000 acres of State land, it remanded the case for further testimony to determine the date when the Government took the land. The court said if this occurred before March 12, 1973, the suit is barred by virtue of the 6-year statute of limitations for filing such claims.

As of August 1983, the date of taking has not yet been determined.

Another 72,000 acres of State land was not included in the Court of Claims case and three grazing leases exist for a portion of this State land. The Army has leases with the grazing lessees and the State for this land.

According to the Corps, as of November 1983, the Government had made payments of about $20 million, or an average of $10 an acre for the use and acquisition of the 1.9 million acres comprising White Sands Missile Range.

In summary, regarding the compensation issues relative to the White Sands Missile Range, we learned that the ranchers made claims for compensation which have, for the most part, been settled either through voluntary agreements or through condemnation court cases. We did not develop information relating to the methods used in appraising and assessing fair market value for White Sands land and property that were the subject of court condemnation cases.

With respect to the Army's termination of suspension agreements in 1970 without further payments to ranchers, the U.S. Court of Claims concurred with the Army's action. The claims for compensation of State lands have not been decided by the courts.

This brings me to the acquisition of the McGregor Range land. The McGregor Range is located in the southern part of the State of New Mexico. It comprised about 719,436 acres in 65 tracts at the time the Government took possession. This included 71,083 acres of privately owned land, 626,389 acres of public domain land and 21,964 acres of State land.

The McGregor Range land was originally leased for a short period of time, about 7 years, and acquired outright in 1956. The total payment was $3.4 million, or an average of about $4.74 an acre.

Appraisals were made for the carrying capacity of the entire ranch units comprising of public domain land under grazing permits, State-owned lands leased by ranchers and privately owned lands.

The records do show that the procedures followed by the Army for land acquisitions at White Sands and McGregor Ranges were somewhat similar. For both acquisitions appraisals were made by the Army and value established on the cow-year-long carrying capacity of the entire ranch units. The principal difference in the acquisition procedures related to the timing of the payments.

In the case of the McGregor Range, payments were made up front for the most part, but payments to ranchers displaced in the White Sands acquisition were spread over several years. Also resettlement payments were made to some ranchers displaced when the Government took possession of the McGregor Range. No resettlement payments were made to ranchers displaced by the White Sands Range acquisition.

Some ranchers displaced by the White Sands Missile Range acquisition contended that since they did not get their money up front they were unable to start another ranch elsewhere. They could not borrow against the total value of the ranch.

It appears that when the Government took possession of the White Sands Missile Range in 1942, it did not originally envision a permanent need for the site. This need developed over time. On the other hand, the Government recognized a permanent need for the McGregor Range shortly after it took possession.

Mr. Chairman, this concludes my prepared statement. We will be pleased to answer any questions you may have.

Senator DOMENICI [presiding]. Give me a moment please. Let me say to our witnesses, Senator Bingaman is down on the Senate floor handling the amendment that has to do with Aamodt. As I told you, we will probably have to go down there and vote pretty soon, maybe in a half-hour or 45 minutes. I think I can be here for the rest of the afternoon and early evening. So we should continue right on with the hearing.

I want to apologize for having to go down, but I think you can understand there is no way we can control that in the Senate.

Let me ask you, sir, on page 5, you state that the U.S. Government has paid $24.09 million and Mr. Cronin testified the Army paid $20.5 million. Who is right?

Mr. MITCHELL. The Army is right. In my statement that I just gave, I cited the $20 million figure. The $24 million figure was as of April 1983, the figure that we obtained from the Corps of Engineers at that time. Both figures were obtained from the Corps of Engineers, our figure and theirs.

When we obtained it in April 1983, we thought it was $24 million, but that has since been corrected. It is $20 million.

Senator DOMENICI. I understand that you did not study, nor do you have any recommendations on fair market value and appraisals. If I am wrong on why you did not do it, please tell me, but I understand that, at least the position was taken that the matters were in litigation and consequently as a matter of your procedures you did not want to do it. I am informed that those particular issues are no longer technically in litigation. If that is the case, could you do us a fair market value and appraisal evaluation?

Mr. MITCHELL. That is exactly right. When we were doing the early work last spring, it was in litigation. I guess the State-owned land still is in litigation. We will do whatever the subcommittee would like for us to do. If the subcommittee would like to ask us to do more work, we can do that.

We did not look at how they made the appraisal when we did this job earlier, because of the litigation and we did not even ask the courts how they determined what was the fair amount. But, again, we will try to work with the subcommittee or with the subcommittee staff, if you need additional help.

Senator DOMENICI. The subcommittee chairman, Senator Wallop, has indicated to us that he is aware of what you have just described and now with your answer, it is my understanding that on behalf of the committee he will ask you to do that. So we ought to do that officially very soon.

Mr. MITCHELL. Mr. Chairman, can I mention one thing too? GAO cannot actually do the appraisal, as you are well aware. We would be looking at how the appraisal was done.

Senator DOMENICI. Yes, I understand that, right.

Mr. MITCHELL. Thank you.

Senator DOMENICI. Have you run into a case anywhere in your history over there that is anything like this one?

Mr. MITCHELL. No, sir, I have not run into a case like this before.

Senator DOMENICI. It is a very peculiar type of condemnation.

Mr. MITCHELL. It is taking an awfully long time.

Senator DOMENICI. That is very generous. You could say a lot worse. It seems to me that not only is it different, but it seems to me that if we allow this approach to condemnation to be anything like a matter of practice by the Federal Government, it could almost wreck the notion of just compensation in the constutition. Because you can almost wait these people out, pay them a little bit at a time. I never knew anything like piecemeal payments for condemnation. I did a lot of that work when I was a lawyer and the court was pretty tough.

If the Government takes things, they have got to pay and they have got to pay cash. In fact, they have to pay interest from the day of taking, which is really when the papers are served, before they take possession. We have this one dragged out for all of these years and then the Government changing their mind in between on what they own and what they do not own.

I do not know how in the world that could have ever yielded fairness. That is not for you to answer, I assume, but you do see it as some rather unusual process. Is that correct?

Mr. MITCHELL. Yes, sir. I think it is fair to say when we went back and did some more work with Congressman Skeen after we had done that original job and compared the acquisition of the McGregor Range with the White Sands Missile Range, I think it began to disclose the differences in how the condemnation worked. The payment up front was a benefit to the McGregor Range ranchers.

Senator DOMENICI. Would you give us an estimate of how long it might take you to do the work that I have just described with reference to fair market value and appraisal evaluation?

Mr. MITCHELL. I am afraid I do not know an estimate of that, sir. I would like to meet with the subcommittee staff and discuss that with them.

Senator DOMENICI. I surely do not want to do it if it is going to take a long, long time. I would like to expedite it. We surely do not want more people dying before we get this resolved. We would like as many alive as possible when we get this resolved. That is not directed to you.

If we have any further written questions, we will submit them. Thank you very much for your efforts and we are always appreciative of your professionalism. Thank you very much.

Mr. **Mitchell**. Thank you, sir.

Senator **Domenici**. Our next witness, I am very pleased to have Commissioner of Public Lands, Jim Baca, from the State of New Mexico. Jim, you are welcome here. We are pleased to have you. We know of your genuine interest not only on the rancher issue here but on the Federal Government's responsibility with and toward the state of New Mexico as it concerns these lands and others.

We have your statement and you may proceed at your pleasure.

STATEMENT OF JIM BACA, COMMISSIONER OF PUBLIC LANDS, STATE OF NEW MEXICO, ACCOMPANIED BY ARTHUR J. WASKEY, GENERAL COUNSEL, NEW MEXICO STATE LAND OFFICE

Mr. **Baca**. Mr. Chairman, thank you. It is a pleasure being before you today and I know how busy you all are. I will be very brief with my oral presentation, about 7 minutes, I hope. We do have a written statement, which has been presented for the record, and it goes into this a lot more.

Senator **Domenici**. It will be made a part of the record.

Mr. **Baca**. This will be a presentation on the acquisition of the State trust lands in the White Sands Missile Range.

White Sands Missile Range occupies approximately 350,000 acres of New Mexico's common school trust lands. At the time the trust, which includes these lands, was created Congress viewed the lands as an endowment which if managed in a businesslike manner would insure that public education in New Mexico was adequately funded to provide perpetual excellence.

To make sure that its intent with respect to New Mexico was fully realized, Congress imposed strict conditions on the use of the land, requiring that all revenues generated by the land and its products be collected at no less than fair market value and be used only for public schools.

Moreover, when it came to the mineral and oil and gas resources of these lands, Congress required that New Mexico reserve them so that the full mineral value of the land would be realized by the trust and not subsequent purchasers of the land.

It is clear that Congress's purpose was to prevent the school trust lands from being used by persons and organizations without the full economic potential of those lands accruing to the trust beneficiaries. What is more, legislative history indicates that Congress would not permit a lessening of the trust unless it directly and purposefully did so only after analysis of impact and prior communication with the state.

A reduction of the trust has occurred, however, without the consent of Congress, in the manner in which the Army has occupied the lands at White Sands Missile Range, and continues to occur in litigation between New Mexico and the Army and the Justice Department.

As this committee has heard when White Sands Missile Range was initially created, all the public domain, Taylor Grazing permit land was withdrawn for military purposes. This action reduced the size of ranches occupying much of the area and reduced the value of the remaining State trust lands and private lands which had been used together with the Federal land in economic ranch units.

In 1975, the private lands were condemned, leaving the State school trust lands in this previously checkerboarded area completely isolated in use. At that point the trust lands' value was severely lowered because its highest and best surface use was for cattle grazing in those ranching units.

I find it difficult to rectify the Army's approach to acquiring White Sands Missile Range with Congress intent that New Mexico's school trust lands be used to create as much income for public education as possible. Clearly, I believe, the proper approach would have been an effort to seek a method of acquisition calculated to return to the trust the full value expected from these lands if White Sands Missile Range had not been created.

Currently, the issues of the acquisition of New Mexico school trust lands and the proper measure of compensation for the taking of those lands are before the U.S. Claims Court. A lawsuit in inverse condemnation was filed by my predecessor and prior State grazing leaseholders in 1979. Although I am not convinced that the lawsuit was the appropriate route for solution of these issues, it was brought because of the frustration felt by the trust administrator in seeing the value of the lands in his charge being adversely affected.

Obviously, in the judicial forum the ability to take into account the extreme importance of the purpose of these lands is lacking. I have urged the Army and the Justice Department to consider the intent behind these lands as a reason for finding an alternative to continuation of the lawsuit. But apparently they feel compelled to strike a hardline defensive posture that aims to get all of New Mexico's interests in these trust lands for as little amount of compensation as possible.

As trustee of these lands, I believe I must make every effort to prevent the loss of their full potential. I would prefer and will pursue alternatives to litigation, because win or lose from litigation the trust will never be compensated in an amount that would correspond to the income which development of these lands could produce.

I, of course, am not saying that White Sands Missile Range should not exist. New Mexicans realize the importance of the installation to national defense and security. But, clearly, in light of the intent of Congress in granting these lands for an equally important purpose, public education, the method of acquisition and use of New Mexico school trust lands could have and still should recognize that intent and purpose.

In 1926, when the U.S. Senate was considering legislation which, when subsequently enacted, transferred the mineral interest in school trust lands to New Mexico, a Senate report supporting the legislation stated:

> Certainly Congress and the Federal Government can well afford to, and should, adopt a beneficient attitude toward the States whenever legislation which has for its

purpose the education of its people is before it for consideration. That is the purpose of the proposed legislation.

Senator and Mr. Chairman, I ask today that Congress take a beneficient attitude toward New Mexico and its public education system. I ask that Congress consider alternative resolutions to the issue of the acquisition of school trust lands within the White Sands Missile Range which will insure that our public schools receive the fullest benefit of these lands as intended.

Some examples of alternative resolutions are allowing New Mexico to make in lieu selections of, or exchanges for, other nonappropriated public domain land within New Mexico. This, I believe, is within the public interest as the Federal Land Policy and Management Act requires.

Two, the military mission at White Sands Missile Range does not require use of the mineral estate. Many areas of the range could be jointly used for some mineral development and exploration, especially oil and gas, without interfering with the military mission. Thus, New Mexico could block together mineral lands for development while receiving compensation for the appropriation of the surface interests.

No. 3, an alternative I favor and which is the easiest to achieve is to merely allow New Mexico to retain its current mineral interests for development at some time in the future, while compensating New Mexico for the taking of its surface interests.

I desire to retain title to the minerals for the trust, even though I might be required to forebear for a period of time from their development, because the level of income from their development in the future is potentially much greater compensation than any compensation award that could be given to us by the Justice Department.

Senator DOMENICI. Could I ask you on that last one, condemnation and payment for the surface and retention of the mineral interest in the State, do you have in mind that that retained mineral interest would be treated as other mineral interest of the public, U.S. public on a military reservation with reference to development or would it be treated in some special separate way?

Mr. BACA. I think it would probably have to be treated in the same way. Mr. Chairman, I think there are all sorts of alternatives here: Perhaps mile wide strip area around the missile range where we could develop. We know that White Sands Missile Range is going to be there for quite awhile. There is no doubt about it.

But as you know when I came into office last January, we contracted for the first real good geologic survey in there. That is a sedimentary basin and it has never really been explored and the potenial for oil and gas in there is very great. That is why I think it is so important to hang onto these mineral rights. I could foresee us working under the same restrictions that other public lands have in military reservations.

Senator DOMENICI. The reason I ask is that a number of New Mexicans over the years I have been in the Senate have asked why you could not find out, for instance, is there a lot of natural gas there or not. And as a result of a number of those inquiries, the law was changed about 5 years ago. Prior to the change, the military had the absolute power to say no.

Now, there is some ability on the part of the Secretary of Defense to permit some reasonable exploration. I do not remember the precise——

Mr. BACA. Mr. Chairman, I am aware of that.

Senator DOMENICI. You are saying that might work for our State's mineral interest also?

Mr. BACA. Yes, Mr. Chairman. I think it could, but we want to keep those mineral interests or we will never get to that point.

Senator DOMENICI. Yes; I understand, but what I am saying is if we intervene, this will be a mineral interest vested in the State of New Mexico, not a mineral interest on a military reservation vested in the Federal Government.

Mr. BACA. True.

Senator DOMENICI. And if they want to know, if we negotiate and work with them, if they want to know are you going to want some extraordinary rights of entry over those which you are now permitting on Federal land that has royalty potential, then certainly we have to be in a position, you and I and others, to justify it, and we will be glad to work with you on it.

Mr. BACA. Mr. Chairman, thank you. I will just finish real quickly.

As the administrator of this important school trust for public education in New Mexico, I am desirous of discussing any possible resolution which will fulfill the intent of Congress and provide New Mexico with a valuable permanent endowment for public education.

Thank you, Mr. Chairman. I have with me Mr. Art Waskey, my legal counsel, and we would be happy to answer questions if you have any.

[The prepared statement of Mr. Baca follows:]

State of New Mexico
OFFICE OF THE
Commissioner of Public Lands
Santa Fe

JIM BACA
COMMISSIONER

P.O. BOX 1148
SANTA FE, NEW MEXICO 87504-1148

November 10, 1983

TESTIMONY OF THE HONORABLE JIM BACA, NEW MEXICO COMMISSIONER OF PUBLIC LANDS, BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, REGARDING THE PRACTICES OF THE DEPARTMENT OF THE ARMY IN OCCUPYING NEW MEXICO SCHOOL TRUST LANDS WITHIN WHITE SANDS MISSILE RANGE

White Sands Missile Range occupies approximately 350,000 acres of New Mexico's common school trust lands. These lands were granted by Congress to New Mexico as she approached statehood solely for use as a source of income to support public education. The procedures used by the Department of the Army and the Army Corps of Engineers in occupying these trust lands have not taken into account the important public education purpose they were meant to fulfill. In fact, the Army has proceeded in a manner calculated to take these lands from New Mexico at the lowest possible value. Consequently, the Army has seriously transgressed against Congress' intent that these lands be held to support education, thereby depriving New Mexico citizens of the full benefit of these lands.

My testimony today outlines the history of the Army's occupation of New Mexico common school trust lands, discusses the conflict with the congressional purpose behind the grant of these lands which the Army's actions have created, and raises some alternatives Congress might consider to insure the full benefit of these lands for public education without interfering with the Range and its national security mission.

HISTORY

When President Franklin Roosevelt by Executive Order declared a state of national emergency prior to our entry into World War II, it was determined that a large area, originally known as the Alamogordo Bombing Range and now White Sands Missile Range, was necessary in order to train pilots and conduct other wartime activities--including detonation of the first atomic bomb. The Army determined that an area in south-central New Mexico was most appropriate for this purpose because of its isolation and sparse population. In late January 1942 the United States Attorney filed a Petition in Condemnation in the United States District Court for the District of New Mexico, seeking to condemn an "easement of exclusive use and possession" in approximately 1,200,000 acres of land for a period of five years, or until termination of the declaration of national emergency. Of the land included in the Condemnation action, approximately 37,000 acres, some of which was state land, was condemned in fee.

While a large amount of the land used for these training activities was under federal ownership, approximately 350,000 acres were state common school trust lands. At the time of the filing of the condemnation action these lands were being leased by the New Mexico Commissioner of Public Lands to individual ranches and mining interests, the income from these leases going into the fund for the particular beneficiary institution in whose name the lands were administered.

Since the original condemnation action in 1942 the New Mexico Commissioner of Public Lands has at all times cooperated fully with the United States Government on making the land now within White Sands Missile Range available for military uses. Thus on February 19, 1942, soon after the filing of the condemnation, the then Commissioner entered into an agreement with the United States that provided for the lease to the United States of some of the state lands needed by the Army. The agreement was renewable annually until 1947. This lease was voluntarily renewed by supplemental agreement.

At about the same time the State entered into a stipulation whereby the land office agreed to forego development of the mineral interests underlying state trust lands within the missile range. To this day the state continues to forego such development, with the associated loss of income. In addition, as the boundaries of the area used by the military changed, the Commissioner of Public Lands usually entered into voluntary lease agreements whereby state trust lands were made available to the United States with a minimum of administrative requirements.

The voluntary nature of New Mexico's cooperation continued until 1970, when, under threat of leasehold condemnation, the State granted the Department of the Army a leasehold interest in all the State's interests in White Sands Missile Range for a year term, renewable annually for 10 years. This arrangement was repeated in 1980. Meanwhile, in 1975, the Department of the Army began and has essentially completed the direct condemnation or acquisition of all private holdings within the missile range.

This action obviously left the state trust lands, which are "checker boarded" throughout the missile range, isolated in ownership and use. Moreover, the resulting final destruction of ranching units within the missile range left little value in the surface estate of the state trust lands.

As a consequence of this action the Commissioner of Public Lands in office in 1979, together with ranchers who had held state grazing lessees, filed a lawsuit in the United States Claims Court under the Tucker Act, claiming a taking of the surface estate of the state trust lands. In 1981 the Claims Court, in an opinion denying cross motions for summary judgment, suggested that a taking had, indeed, occurred, but reserved a final decision until the date of taking, the extent of taking, and the amount of compensation are determined. These issues are still pending. However, notwithstanding the interlocutory nature of the Court's opinion, the Department of the Army has taken the position that it now owns the lands, contrary to United States Supreme Court decisions, and has terminated its lease payments to New Mexico's schools.

CONFLICT WITH CONGRESSIONAL INTENT

The lawsuit filed by my predecessor in the United States Claims Court provides a focal point for discussing the conflict which the Army's acquisition of New Mexico's school trust lands has created with the Congressional purpose behind the conveyance of these school lands to New Mexico.

Although, as the administrator of the trust for these lands, I have some reservations whether the lawsuit should have been filed in the first place, it was brought because of the frustration created by the Army's actions in occupying White Sands Missile Range. From the creation of the original bombing range during World War II until 1975, the Army continually represented to the State that its occupation of these lands was temporary. The methods used by the Army to hold the land for its use--the condemnation of yearly leasehold estates with the option of renewing or relinquishing a leasehold--manifests the uncertainty of the Army's need. Further, by withdrawing federal public domain from leasing and then subsequently condemning only the fee simple estate of the privately held lands, the Army's actions have broken up ranch units, thus having the effect of isolating state trust lands and reducing their value. Because this is such an obvious consequence of the Army's actions, I can only assume that this devaluation has been intentional. I also believe that the Army, thinking that the water table under White Sands Missile Range was dropping, hoped to wait as long as possible before directly condemning the state trust lands in order to get them at a reduced value.

In my opinion, it is unconscionable that New Mexico felt compelled to bring a lawsuit in order to protect its interests from destruction by the United States. Because the United States was the grantor of our school lands trust, and because of the special national security needs which White Sands Missile Range fulfills, the State, perhaps naively, has always voluntarily cooperated with the Department of the Army's actions. Conversely, at every turn, the Army and the federal government have not dealt with New Mexico within the trust framework, but have behaved as an adversary, calculating, it seems, to diminish the value of the very land the United States gave to New Mexico to put it on an equal footing with its older sister states.

Actually, these hearings today are the first I know of in which Congress has had an opportunity to fully understand the conflict which the Army's actions to date have created between the United States compact with New Mexico and its desire to satisfy national security needs. My purpose in so strongly promoting New Mexico's interests in its school lands occupied by White Sands Missile Range is to assure that the purposes for which those lands were conveyed to New Mexico are not given short shrift. These lands are fundamental to New Mexico's status as a state and to the support of our educational system.

It is important, I believe, to briefly review the history of the grant of these lands to New Mexico and the Congressional intent behind those grants, in order to understand this conflict.

Almost all of the state's school lands now occupied by White Sands Missile Range were granted to support our common schools and public education. Initially, as a territory, New Mexico received two sections in each township for common schools support. In its Enabling Act of 1910 (Act of June 20, 1910; ch. 310, 36 Stat. 557 (1910)), New Mexico received an additional two sections, bringing the total to four sections in each township, to put it on equal footing with its sister states. New Mexico, along with Arizona and Utah, received four sections in each township because of the arid and desert conditions of much of the land within the state's borders. These grants, at the time they were originally made, included only lands known to be non-mineral in character.

These lands were granted to the State in trust for the purpose of generating income to support our common schools. This type of grant for educational purposes was at that time, and continues to be, one of Congress's most important contributions to public education. Due to the sad experiences in other states where much of the common school lands had been imprudently sold to the detriment of public education, the trust for New Mexico was the strictest of any that Congress had previously imposed. S. Rep. 454, 61st Cong. 2nd Sess. (1910). For example, section 10 of New Mexico's Enabling Act required the State to receive at least fair market value when disposing of land, to dispose of land in most cases by public bid, and to keep the land and its products and proceeds in perpetual trust only for support of the trust beneficiaries, primarily the common schools. One provision in Section 10 of New Mexico's Enabling Act even set up the Attorney General of the United States as a protector of the trust, with the duty and power to bring legal actions to insure that the use of the school trust lands was only for school purposes.

However, because of the uncertainty of whether the lands were known to be mineral or non-mineral in character, years of litigation ensued, much of it brought by the Department of the Interior, which seriously clouded New Mexico's title to school lands, thereby preventing the achievement of their purpose for public education. S. Rep. No. 603, 69th Cong. 1st Sess 4-5 (1926). Ultimately, in 1926, Senator Jones from New Mexico introduced legislation which, when enacted in 1927, extended the Enabling Act grants for common schools to those lands which were also mineral in character and which required, rather strongly, that the states forever reserve the minerals; that is, the states were allowed to lease the minerals for development but not to permanently dispose of them. See 43 U.S.C. § 870.

This enactment, of course, solved the immediate title problems, but had an even more important and far-reaching purpose--to ensure an adequate permanent endowment for public education in those states affected by the legislation. As the United States Senate reported at the time of Senate discussion about Senator Jones' act: "This is a matter of vital importance to these states and is the very lifeblood of their common school system which is being drained away surely and systematically." S. Rep. No. 603, 69th Cong. 1st Sess. 5 (1926). The Senate, at that time, understood that these lands, including the minerals, were necessary for the maintenance of that "great institution, our common school system." Id.

It should be remembered that it was in fact the federal government, in the form of the Department of Interior, which was doing most of the "draining" of the school trust lands by initiating litigation challenging the states' title to non-mineral lands. As the Senate further reported: "Manifestly, this condition of affairs should not be allowed to continue as long as Congress has the power to ameliorate it." Id. at 6. Today, almost sixty years later, we find that the federal government is again, this time in the guise of the Department of the Army, draining our public education lifeblood. I hope that Congress will seriously consider again exercising its power to ameliorate the current condition of affairs to insure proper realization of New Mexico's School trust lands for their intended purpose--public education.

I, of course, am not saying the White Sands Missile Range should not exist. New Mexicans realize the importance of the installation to national defense and security. But clearly, in light of the intent of Congress in granting lands for an equally important purpose, public education, the method of acquisition and use of New Mexico school trust lands within White Sands Missile Range could have been and still should be done in a manner which recognizes that intent and purpose. As the Senate reported in 1926, "certainly Congress and the federal government ought to deal with the states as sovereigns rather than subjects." S. Rep. 603, 69th Cong. 1st Sess. 11 (1926). That should be equally true today, but instead, I feel New Mexico is being treated not as a sovereign, or even as a subject, but as an occupied territory.

In supporting Senator Jones' proposed legislation, the Senate stated in its 1926 report that, "Certainly Congress and the Federal Government can well afford to, and should, adopt a beneficent attitude toward these states whenever legislation which has for its purpose the education of its people is before it for consideration. That is the purpose of the proposed legislation." Id. at 7.

ALTERNATIVES

I ask today that Congress take a beneficent attitude toward our state and and its public education system. I ask that Congress consider alternatives to the lawsuit which the Justice Department is now pushing, evidently hoping to acquire our school trust lands without any payment, even though I have indicated a desire to seek alternatives.

Currently, I am required to expend school trust funds on this litigation to preserve our interests when other non-costly resolutions are available or possible which correspond with the original purpose of these lands for public education. Some of these alternatives are:

1) Allowing New Mexico to make in lieu selections of or exchanges for other nonappropriated public domain land within New Mexico. This, I believe, is within the public interest as the Federal Land Policy and Management Act requires. Certainly Congress in giving these lands to New Mexico thought that it served a great public interest and need.

2) The military mission at White Sands Missile Range does not require the minerals and many areas of the missile range could be jointly used for some mineral development, especially oil and gas, without interfering with the military mission. Thus, New Mexico could be allowed to block together mineral lands for development, while receiving compensation for the appropriation of its surface interests.

3) An alternative I favor and which is the easiest to achieve, is to allow New Mexico to retain its mineral estate, for development at some time in the future, while compensating New Mexico for the appropriation of its surface interests.

As I stated previously, I have attempted to discuss with the Justice Department alternatives which could lead to a settlement of this case. Currently, I am making a strong effort to retain title for New Mexico in all its minerals in school trust lands within the White Sands Missile Range, while being agreeable to convey title to the surface to the United States for its fair market value, either as monetary compensation or as a base for land exchange. I desire to retain title to the minerals for the school trust, even though I may be required to forbear for a period of time from their development, for several reasons which I believe are mandated by my trustee duties. First, because this area is geologically similar to the nearby Permian Basin, it has a high potential for energy resource development. I have had published a report by a contract consultant which strongly concludes that large oil and gas deposits are very probable within state lands encompassed by White Sands Missile Range. Second, the amount of revenue which development of the minerals within White Sands Missile Range will eventually produce is potentially so much greater than any monetary compensation which may be paid now or which Congress may be willing to pay. Under appraisal theories used by the Army, there is no possibility that a monetary award for New Mexico's mineral interests, including oil and gas, could match the bonus and royalties New Mexico could generate from the leasing and actual development of the minerals. Third, I do not believe that the United States has available for exchange within New Mexico a sufficient number of available unappropriated mineral acres of equal value. I do believe, however, that there are sufficient unappropriated acres which would allow an exchange between the State of New Mexico and the Bureau of Land Management for surface lands.

As the administrator of this important school trust for public education in New Mexico, I am desirous of discussing any possibly resolution or combination of alternative resolutions which will fulfill the intent of Congress to provide New Mexico with a permanent endowment for public education. I can think of no logical reason why New Mexico and the United States must continue litigation which will not result in the fulfillment of that intent. However, I am obliged to continue the litigation and shall do so aggressively unless the United States will work with me to insure our public schools the full benefit of the lands.

Senator DOMENICI. Very good. How many acres do we have that are State owned?

Mr. BACA. Mr. Chairman, there are about 340,000 acres under question at this point and about 270,000, as I understand it, in the Claims Court.

Senator DOMENICI. Could I ask counsel, the Commission referred to a lawsuit on inverse condemnation filed by his predecessor, and he has been very forthright. He told me he did not like that approach, that he wanted to work something out better for the State and its education system and not detrimental to the Federal Government.

What is the Government saying to that, now that the condemnation is filed, is it all or nothing?

Mr. WASKEY. Mr. Chairman, at this point the Government's legal position has been that no taking has occurred. But if in fact the court rules a taking, then their position is that they have taken everything, including the surface and the subsurface State, and they are at this point arguing that the taking date occurred at a time which was outside of the statute of limitations and, thus, that they would effectively possess the land without any necessity of giving the State compensation for it.

Senator DOMENICI. Could you just quickly—I do not want to take too much of your time or of the remaining witnesses—tell me in your own words how can the Federal Government answer that suit and say there was no taking? What are they saying? What is their position?

Mr. WASKEY. Their position, the Court of Claims, which is now the Claims Court after the change, was that the serial condemnations leasehold, annual leasehold condemnation did not constitute a taking which required just compensation under the fifth amendment.

Of course, the Claims Court in an interlocutory order said that, in fact, it did constitute a taking, but left for answer the date of taking and the amount of value that has been taken. They understand, if I may, Mr. Chairman, in my discussions with the Justice Department attorneys, that there is an anomaly in their position but they feel apparently compelled to force it anyway.

Mr. BACA. Mr. Chairman, I think they are trying to steal it.

Senator DOMENICI. They would like to have it and not pay for it?

Mr. BACA. Yes, Mr. Chairman.

Senator DOMENICI. And they actually maintained in an affirmative manner that they could continue with annual kinds of payments or did they maintain that they had already paid enough?

Mr. WASKEY. Mr. Chairman, they maintained, as I understand the legal position, that they could continue to make annual leasehold condemnations and pay only the annual leasehold fee for as long as they felt it was necessary to do so.

Senator DOMENICI. That is very interesting, because it seems to me that would be predicated upon a legal premise that the leaseholds lasted into perpetuity, and conversely if they lasted into perpetuity, they are extremely valuable.

Mr. WASKEY. Mr. Chairman, if I may, at the time the lawsuit was ongoing and during all this period that the Army has occupied White Sands Missile Range, the State in an effort to aid the ranchers and maintain the ranch units has continued to issue grazing leases and did so until the late seventies, hoping that if the range was ever disestablished as a ranch, that we would help them maintain their ranch and its value. That apparently has backfired.

Senator DOMENICI. Thank you very much. If we have any written questions, we will get them to you quickly from the senators in whatever is a reasonable amount of time, and the answers in a couple of weeks or a month.

Mr. WASKEY. Thank you, Mr. Chairman.

Senator DOMENICI. Thank you very much.

Let me say that that one light up there means the vote is on and we have about 11 minutes to get down there and make the vote. Rather than call the next witnesses, why don't we stand in recess for about 10 minutes and then we will return and take the next witnesses.

[Whereupon, a recess was taken.]

Senator DOMENICI. This hearing will come to order. We are on item No. 6. We have a panel now of New Mexicans, Charlie Lee, Alamorgordo; Dolly Helms, Oscura; Pat Withers, Oscura, Priscilla Ortiz, Rio Rancho; Dave McDonald, Socorro; G.B. Oliver, Jr., Alamorgordo.

Will all of you please join Charlie at the table.

Before you start, let me introduce and welcome a new U.S. Senator. This is Senator Evans from the state of Washington. As you know, he was here for only a few days as the appointed successor for Senator Jackson, and under their laws, he was very lucky, they have to have a short election race. How long did it take? Sixty days. We ought to pass that kind of law for the whole country.

We are delighted to have him and he is on this committee and he has a genuine interest in the public domain issues. He will be with us part of the afternoon and hopefully Jeff and I can share this record with him and he will be constructive in helping us try to resolve this very longstanding problem. We welcome you here.

Senator EVANS. Thank you very much.

Senator DOMENICI. Shall we proceed with the panel in the order that we have them listed. Is that satisfactory with you all? Welcome to all of you. Charlie Lee, would you open up please?

STATEMENT OF CHARLIE T. LEE, MEMBER, NEW MEXICO STATE SENATE

Senator LEE. Mr. Chairman, if I may, before we begin, there are, as you are well aware, a number of ranchers here from White Sands Missile Range, but for those who were unable to attend, they wish that I would convey to the Chair and to the Senators their appreciation for holding these hearings.

Mr. Chairman, for the record, my name is Charlie Lee. I appear here today wearing several hats, as a spokesman for the National Cattlemen's Association, the National Wool Grower's, the Public Lands Council, and although not a participant in the White Sands dispute, I am a New Mexico State Senator and the ranchers involved are my friends and constituents whom I am pleased to represent in their struggle to receive just compensation for the loss of

Federal and State leases acquired by the military for the establishment of White Sands Missile Range.

Due to my family's involvement in the McGregor Range acquisition and at the Chair's request, I shall offer a comparison of the methods of acquisition and payment on two military ranges which lay side by side in southern New Mexico, White Sands Missile Range and the McGregor Range. I would hope the committee will recognize that the powers of condemnation and the prevailing statutes utilized should be the same in both cases.

Other witnesses will testify that payments to White Sands ranchers covered only private property and improvements owned by the lessee, thus, excluding any consideration for the rancher's rights or privileges to the use of Federal and/or State leased lands. Although denied payment on these permits, the Internal Revenue Service has consistently placed a value on these same permits for inheritance purposes.

The Corps of Engineers has maintained that a lease and suspension agreement with the ranchers on White Sands constitutes payment for Federal and State land leases. This position, in my opinion, is not consistent with the statutes, nor with congressional intent, specifically with 315(q) of the Taylor Grazing Act, in exhibit A, and subsequent amendments, exhibit B.

Mr. Chairman, by no stretch of the imagination in a legal sense can a lease and suspension agreement be construed as a purchase contract.

During the acquisition of the McGregor Range and my family's property in 1956, there was never a question that the military would acquire our ranch other than by the animal unit, which constituted payment for the total ranching unit. This procedure was not utilized on White Sands.

If the committee will note in exhibit C, Judge Roger's ruling, refers specifically to payment covering patented land and Federal and State land leases with reference to 315(q) of the Taylor Act.

I have included as exhibit D a portion of the appraisal performed on behalf of my father, which demonstrates that final payment and settlement of our ranching unit, pursuant to Judge Roger's ruling, covered those lands acquired by the military and also severance damages to those lands not taken in the acquisition.

The military acquired 1,316 animal units from our ranch. Pursuant to the Court ruling, we received $502.81 per animal unit, plus severance damages. When damages are included, the AU figure rises to $518.24. These figures are substantially greater than those reflected in the GAO report, covering White Sands or McGregor Range.

One related issue that has never been fully addressed in the White Sands Range, nor in the McGregor Range acquisition, lies in the fact the courts have denied settlement of the issue by a jury trial. If allowed, in my opinion, we would not be here today. What has become of amendment 7 of the Constitution, which guarantees the right to a jury trial in all civil cases where the controversy exceeds $20?

In closing, Mr. Chairman, it should be noted that 40 years ago, when the White Sands ranchers were evicted from their homes, this country was at war. We won that war. Then through the generosity of the taxpayers, we rebuilt not only Germany, Japan, and Italy, but all of Europe. Is it not time we settle this longstanding debt with our own people?

Thank you, Mr. Chairman.

[Exhibits to the statement of Senator Lee follow:]

EXHIBIT A

as it largely affects mining industries in his State. The bill has the endorsement not only of himself but of his colleague and of the Representative from that State.

Mr. McCARRAN. Mr. President, in explanation of the measure called up by the Senator from Pennsylvania, I wish to say that throughout the country, and especially the mining sections the Government, for war purposes, has either instituted condemnation proceedings or has taken possession of large tracts of the open public domain. In many of the tracts taken over for war activities by the Government there exist mining claims of various character, both lode-mining and placer-mining claims, which have in the past been located by legitimate locators, and have been held, and the annual work thereon done pursuant to law from year to year. Now that the Government has taken over these tracts, the owners of the mining claims are prohibited from doing the annual assessment work because of war activities in the areas.

The purpose of the bill is to make it possible for the ownership to continue in the locators of the mining claims and to suspend the obligation of doing the annual assessment work for the period during which the Government is occupying the premises and for 1 year thereafter. The purpose of the bill is simply to carry out the authority of the law with reference to assessment work on mining claims, but to permit those who have mining claims within territory taken over by the Government for war purposes to be relieved of doing the annual assessment work.

Mr. President, I ask for the present consideration of the measure.

The VICE PRESIDENT. Is there objection?

There being no objection, the bill (H. R. 6295) to suspend the requirement for the performance of annual labor on certain mining claims was considered, ordered to a third reading, read the third time, and passed.

COMPENSATION OF HOLDERS OF GRAZING PERMITS AND LICENSES FOR CERTAIN LOSSES

Mr. MURDOCK. Mr. President, will the Senator yield to me?

Mr. McCARRAN. I yield.

Mr. MURDOCK. I ask unanimous consent for the consideration at this time of Senate bill 2599; Calendar 1546.

Mr. McCARRAN. Mr. President, the same understanding may prevail, that if there is any controversy or threatened controversy with respect to the measure it will have to go over.

The VICE PRESIDENT. Is there objection to the request of the Senator from Utah [Mr. MURDOCK]?

There being no objection, the Senate proceeded to consider the bill (S. 2599) authorizing the Secretary of War to compensate holders of grazing permits and licenses for losses sustained by reason of use of the public lands for war purposes, which had been reported from the Committee on Public Lands and Surveys, with an amendment to strike out all after the enacting clause, and to insert in lieu thereof the following:

> That whenever use for war purposes of the public domain or other property owned by or under the control of the United States prevents its use for grazing, persons holding grazing permits or licenses and persons whose grazing permits or licenses have been or will be canceled because of such use shall be paid out of the funds appropriated or allocated for such project such amounts as the head of the department or agency so using the lands shall determine to be fair and reasonable for the losses suffered by such persons as a result of the use of such lands for war purposes. Such payments shall be deemed payment in full for such losses. Nothing herein contained shall be construed to create any liability not now existing against the United States.

The amendment was agreed to.

Mr. McNARY. Mr. President, the title of the bill is rather enticing in its composition. I should like to have the Senator from Utah explain the purposes of the bill.

Mr. MURDOCK. Mr. President, this is a bill introduced by the Senator from Arizona [Mr. McFARLAND] for himself and in behalf of seven or eight other western Senators. I think the Senator from Arizona conferred with the distinguished minority leader, and also with the distinguished acting majority leader, the Senator from Alabama [Mr. HILL]. Since the declaration of war vast tracts of land in a number of Western States have been taken by the Government for war purposes. As a result of the taking of these lands for war purposes, in numerous instances livestock operations which have been carried on for many years, even prior to the Forest Reserve Act, prior to the enactment of the Taylor Grazing Act, and since the enactment of those laws, have been disrupted.

Under the Taylor Grazing Act and the forest reserve law permittees and licensees who are allowed to use the public lands for grazing purposes do not acquire a vested interest in the lands. All they acquire is a permit or license to graze livestock on the lands. As a general rule, the permit extends for a period of 10 years.

The grazing permit is an integral part of the livestock operation. To take away from a livestock operator the right to use the land for grazing purposes results in just as much damage as would the taking of his fee-title land. The War Department, the Navy Department, the Department of Justice, the Grazing Service, and the Forest Service have agreed that under present law the damages resulting from such taking cannot be compensated; that is, the permittee cannot be compensated for loss of use of the grazing lands on which he holds a permit or license. The result in many instances in the West, especially in the States of Arizona and New Mexico, is that scores of livestock operators have been put out of business and forced to sell their livestock. As a further result there is a very serious depreciation in the value of their fee-title land, such as their farms and ranches. Under the existing law they can be paid no compensation. All the bill proposes to do is to authorize the payment by the Secretary of War or the Secretary of the Navy, as the case may be, of reasonable compensation for the damage suffered by livestock operators.

In the past few weeks delegations of livestock men from the West, together with State land officials from the Western States, have conferred with the Federal departments and agencies on this question. They have unanimously come to the agreement that a very serious injustice is being done to those who are forced out of business and damaged as a result of the taking of the land for war purposes.

In the hearings before the Public Lands Committee there were present representatives of the War Department and of the Navy Department, a representative of the Forest Service, and a representative of the Grazing Service, who unanimously agreed that a serious injustice was resulting, and one which should be compensable. They unanimously agreed that the bill should be passed, granting authority to the Secretary of War and the Secretary of the Navy to compensate reasonably livestock producers for damages sustained. I hope there will be no opposition to the bill.

Mr. McNARY. Mr. President, I thank the Senator for his very clear and terse explanation of the bill. I think it is a worthy measure. I have no objection to it.

Mr. CHAVEZ. Mr. President, with the permission of the Senator from Nevada [Mr. McCARRAN], I should like to make a brief statement with reference to the pending bill.

In my State the War Department took over 1,000,000 acres of land. On that land were hundreds of stock owners, many of whom had possibly 160 acres of land in fee simple, and perhaps 20,000 acres leased from the Federal Government. The leased land was of great value to the stock growers. As stated by the Senator from Utah, when the Government took over the land it allowed only for the land held in fee simple, plus the improvements. In many instances the Government has taken over land and improvements, and forced the stock grower to look elsewhere for pasture, or to sell his stock. The bill was proposed with the idea of compensating that class of citizens.

Mr. McFARLAND. Mr. President, will the Senator yield?

Mr. McCARRAN. I yield.

Mr. McFARLAND. The junior Senator from New Mexico, who has just spoken, was also a co-sponsor of the bill. I am sorry that his name did not appear on it.

The VICE PRESIDENT. The question is on the engrossment and third reading of the bill.

The bill S. 2599 was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill authorizing the head of the department or agency using the public domain for war purposes to compensate holders of grazing permits and licenses for losses sustained by reason of such use of public lands for war purposes."

CARL L. JONES

Mr. STEWART. Mr. President, will the Senator yield?

Mr. McCARRAN. I yield.

Mr. STEWART. I ask unanimous consent for the present consideration of House bill 2014, Calendar 1374.

The VICE PRESIDENT. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 2014) for the relief of Carl L. Jones.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Claims, with an amendment, on page 1, line 6, after the words "the sum of", to strike out "$5,000" and insert "$3,000."

Mr. STEWART. Mr. President, if I may have the attention of the Senator from Maine [Mr. WHITE] the bill was reported from the Claims Committee by me, and has been on the calendar for several weeks. It involves a claim growing out of personal injuries resulting from an accident in the operation of a C. C. C. truck.

The VICE PRESIDENT. The question is on agreeing to the committee amendment.

Mr. STEWART. I have discussed this matter with the members of the committee. I ask that the committee amendment be rejected, and that the bill be passed as it originally came over from the House.

The amendment was rejected.

The bill was ordered to a third reading, read the third time, and passed.

DIVERSION OF WATERS OF THE REPUBLICAN RIVER

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. McCARRAN. I yield.

Mr. NORRIS. I ask unanimous consent for the present consideration of Senate bill 2604, Calendar 1566, a bill granting the consent of Congress to the States of Colorado, Kansas, and Nebraska to negotiate and enter into a compact for the diversion of the waters of the Republican River.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill (S. 2604), granting the consent of Congress to the States of Colorado, Kansas, and Nebraska to negotiate and enter into a compact for the division of the waters of the Republican River, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That consent of Congress is hereby given to the States of Colorado, Kansas, and Nebraska to negotiate and enter into a compact not later than June 1, 1945, providing for an equitable division and apportionment among the said States of the waters of the Republican River and all of its tributaries above its junction with the Smoky Hill River in Kansas, upon condition that one suitable person, who shall be appointed by the President of the United States, shall participate in said negotiations as the representative of the United States and shall make report to Congress of the proceedings and of any compact entered into: *Provided*, That any such compact shall not be binding or obligatory upon any of the parties thereto unless and until the same shall have been ratified by the legislature of each of said States and approved by the Congress of the United States.

SEC. 2. There is hereby authorized to be appropriated a sufficient sum to pay the salary and expenses of the representative of the United States appointed hereunder: *Provided*, That such representative, if otherwise employed by the United States, while so employed shall not receive additional salary in the appointment hereunder.

LIMITATION OF WELL SPACING IN OIL FIELDS—CONSERVATION ORDER M-68

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. McCARRAN. Mr. President, I regret to say that because of the fact that the bill which is the unfinished business before the Senate must become law before Wednesday next, I shall be unable to yield further, after yielding to the Senator from Illinois.

I now yield to the Senator from Illinois.

Mr. LUCAS. I thank the Senator from Nevada for yielding for a few brief observations relative to Conservation Order M-68.

Some time ago the Petroleum Coordinator's Office adopted a regulation, known as Conservation Order M-68, limiting well spacing in the oil fields of this country to 40 acres of surface area. This order has seriously crippled the oil industry in the State of Illinois and other States throughout the Union. Especially has this order injured and impaired the independent oil operators throughout the country.

Before this spacing regulation was issued by the Petroleum Coordinator in December of last year, Illinois was producing approximately 387,000 barrels of oil a day. In the short space of 6 months thereafter, the production of oil had declined to 274,000 barrels a day. Thus we see a decline of approximately 113,000 barrels of oil a day in the State of Illinois alone.

It should be remembered in connection with the oil operations in Illinois that 81 percent of the new fields in Illinois have been discovered by independent operators, and not by the big companies. As a result of M-68 these independent operators have practically gone out of business; and yet without them the oil development in Illinois would have seriously lagged.

Without the independent oil operator, taking the chances which he takes in wildcatting in every new oil field which is developed, we should not have the oil production in the Nation which we have at this particular moment.

Mr. CLARK of Missouri. Mr. President, as a matter of fact, is not the purpose of the order to which the Senator is referring to put the small independent operators, who did the exploration work, out of business in the interest of the large established oil companies? At least, that is the inevitable effect of it, whether it is the purpose or not.

Mr. LUCAS. I thank the Senator for his statement. I am forced to agree, much as I dislike to do so. The big oil companies can stand by and wait, because of the tremendous reserve capital that they have. They can do their exploration work later, while the independent fellow, who is operating on small financial capital, must go out of business as a result of order M-68.

Mr. President, it is my understanding that the Coordinator's office is now asking for 325,000 barrels of oil a day from Illinois and is getting only 274,000 as a result of failure to change well spacing in that and surrounding States. Illinois is only a short distance from the eastern seaboard. Had the wells in Illinois been permitted to operate without the interference of order M-68, there is a serious question in my mind whether the recent order directing the big pipe line to be constructed from Texas to Illinois would have been necessary. That may be a rather farfetched statement, but I cannot reach any other conclusion. It should be remembered that Illinois is one of the Nation's greatest oil-producing States. It should also be remembered that the big pipe line will end in the richest oil section of our State. From this terminus branch lines will be constructed to various sites along the Ohio and Mississippi Rivers in order that they can barge this oil to the eastern seaboard. Donald Nelson thought the pipe line an unnecessary expenditure. He wanted to use the steel and other materials that will go into the Texas-Illinois pipe line for planes, ships, and tanks.

Mr. CLARK of Missouri. Will the Senator from Illinois yield?

Mr. LUCAS. I yield.

Mr. CLARK of Missouri. As strengthening the conclusion of the Senator from Illinois, the representative of the Office of the Petroleum Coordinator, who appeared before the subcommittee of the Commerce Committee which was investigating the oil situation, in justifying the necessity for this big pipe line from Longview, Tex., to the vicinity of Salem, Ill., did so on the ground that the production in Illinois was falling off very materially, and that Illinois could not supply the field, in spite of the fact that the falling off of production in Illinois is unquestionably caused by the very order the Petroleum Coordinator himself had issued.

Mr. LUCAS. Of course, the conclusion of the Senator from Missouri is inescapable as to the reason for the failure to be able to produce the necessary oil in Illinois, as it is well able to produce it. Had the independent operators been able to go on with their discovery of oil in Illinois, there is no question about the amount we could produce without destroying the reserve.

Mr. CLARK of Missouri. What I desired to call to the attention of the Senator is the fact that it is the official explanation of the Office of Petroleum Coordinator, in urging that this pipe line be constructed from Long View sequent resolutions setting up these special committees.

Mr. SABATH. What committees now need this extra help from the departments?

Mr. COCHRAN. The committee of the gentleman from Georgia [Mr. VINSON] is absolutely not functioning. He has been forced to turn back 20 auditors and accountants. When you take into consideration the amount of money that investigating committee has saved the Government. I am not going to be put into the position of hamstringing that committee in its work. Four other committees are affected.

Mr. SABATH. That applies also to the May committee, does it not?

Mr. COCHRAN. Yes. I yield now to the gentleman from Massachusetts [Mr. McCORMACK].

Mr. McCORMACK. My understanding is that the position of the gentleman from Missouri has been absolutely consistent. The gentleman from Missouri, as I understand—and if I am wrong, I wish to be corrected—the gentleman from Missouri has taken the position that special committees should not get as assistants employees of the departments whose salaries were paid by the departments, but the gentleman from Missouri has never taken the position that qualified employees who could assist special committees should not be utilized if the legislative branch of the Government paid their salaries while they were serving the special committees. Am I correct?

Mr. COCHRAN. The gentleman is absolutely correct. Under the decision of the Comptroller General a department cannot send men down here unless we reimburse the department. I felt all the time such a decision would some day be rendered.

Mr. McCORMACK. I am merely making this observation so the RECORD will show that the position of the gentleman from Missouri [Mr. COCHRAN] is absolutely consistent and clear, and that the resolution he reports from his committee is consistent with the position he has always taken.

This resolution will enable special committees to get the services of the men who are eminently qualified, and it also places the responsibility of paying their salaries while they are in the service of the special committees upon the legislative branch of the Government. It also prevents a lot of confusion and misunderstanding. It would also prevent the special committees from stepping into the executive branch and getting a larger number of employees than they would ordinarily need, because the control of the payment of their salaries while serving the special committees rests with the Congress of the United States through the Accounts Committee.

Mr. COCHRAN. The gentleman is absolutely correct.

Mr. SABATH. This House has heretofore, through the Accounts Committee, refused to appropriate any reasonable amount for some of the committees that have been doing good work.

Mr. MAY. Mr. Speaker, will the gentleman yield?

Mr. COCHRAN. I yield.

Mr. MAY. The situation is simply this with our committee. We have only had a few employees borrowed from the Government, not over five—I think at any one time. But if they are not loaned from these departments that have them and chargeable to their funds, why it will be taken out of the funds of the House and we will exhaust our funds in paying these people.

Mr. RANKIN of Mississippi. Will the gentleman yield?

Mr. COCHRAN. I yield to the gentleman from Mississippi.

Mr. RANKIN of Mississippi. In this connection may I say to the gentleman from Missouri that this resolution will enable the committee to get men who are qualified, men who have had experience in this work, without having to go out and get raw material and training them, which will take up a lot of time and expense. I can see absolutely nothing wrong with this resolution. The fact is, I think it is necessary for these committees that are doing this investigation if they are to function properly.

Mr. HOLMES. Will the gentleman yield?

Mr. COCHRAN. I yield to the gentleman from Massachusetts.

Mr. HOLMES. This does not affect the standing committees that have legislative matters under consideration?

Mr. COCHRAN. No.

Mr. HOLMES. Whereby a department might come up and give us some assistance?

Mr. COCHRAN. That matter was discussed. The head of the Comptroller's legal division told us they would not be disturbed.

Mr. NICHOLS. Will the gentleman yield?

Mr. COCHRAN. I yield to the gentleman from Oklahoma.

Mr. NICHOLS. I am for the resolution. At this time particularly it is absolutely impossible to find qualified personnel to do this job for these committees, and I have had some experience in this matter. If we do not have the means of getting this qualified personnel from the administrative branch, we simply cannot get it, and I want to compliment the gentleman for the work he has done. I think it is important that this resolution pass.

Mr. BLAND. Will the gentleman yield?

Mr. COCHRAN. I yield to the gentleman from Virginia.

Mr. BLAND. I simply want to endorse what the gentleman from Oklahoma [Mr. NICHOLS] has said. I have been trying for 6 months to get some assistance along this line.

The SPEAKER. Is there objection to the request of the gentleman from Missouri [Mr. COCHRAN]?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the head of any department or agency in the executive branch of the Government may detail or assign personnel therein to any committee of the Senate or House of Representatives duly authorized by resolution thereof to make an investigation relating to the activities of any department or agency in the executive branch under the following conditions: (1) The resolution providing for such investigation, or a supplemental resolution, either authorizes the committee to request the use of such personnel, or contains a provision under which the head of any department or agency is requested to detail or assign personnel to the committee: *Provided*, That in the case of resolutions heretofore passed, such request shall be deemed to have been contained therein for the purposes of this act; (2) the personnel so detailed or assigned may, in the opinion of the head of the department or agency, be detached from duties therein without impairment of the public service; (3) the qualifications or experience of the personnel to be so detailed or assigned, in the opinion of the chairman of the investigating committee, particularly fit them for the work of such committee; and (4) the appropriations of such department or agency from which the personnel so detailed or assigned is paid shall be reimbursed monthly from funds available to the committee prior to the detail or assignment in the amount of the salaries of such personnel while on such detail or assignment: *Provided further*, That such reimbursements shall be expended by any such department or agency only to the extent necessary to replace sums used to employ substitute personnel for personnel so detailed or assigned and any reimbursements not so needed shall lapse and be carried to the surplus fund of the Treasury.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COMPENSATION TO HOLDERS OF GRAZING PERMITS

Mr. ROBINSON of Utah. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 2599) authorizing the head of the department or agency using public domain for war purposes to compensate holders of grazing permits and licenses for losses sustained by reason of such use of public lands for war purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Utah [Mr. ROBINSON]?

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, just what does this resolution do?

Mr. ROBINSON of Utah. Mr. Speaker, the purpose of this bill is to pay people who have grazing privileges or licenses on the public land the value of these privileges or licenses where the land is taken for a higher use such as, for instance, a bombing range. For example, the Army has gone into certain States in the West and selected bombing areas where people have grazing privileges. Under the law as it now stands there is no way that the Army can pay any money for these licenses or privileges because the Department of Justice has held that the owners of these permits and licenses have no vested interest. In many instances the Army was ready to make payment of the amount that in their opinion should be paid and had agreed with these persons to pay this amount when they found that they had no legal right to make this payment. The purpose of this bill is to give the heads of the governmental division the right to determine what amount should be paid and to make this payment.

Mr. MARTIN of Massachusetts. The Government owns this land?

Mr. ROBINSON of Utah. That is true.

Mr. MARTIN of Massachusetts. How much is paid for the grazing privilege?

Mr. ROBINSON of Utah. They pay so much each year, and this amount varies in the different sections of the country.

Mr. MARTIN of Massachusetts. Will we be in the position where the Government will pay more for the right to go over its own land than it is receiving from the person who feeds his cattle on it?

Mr. ROBINSON of Utah. They might in some instances, but they have no right to pay anything under the present law. So that we will get the full picture of it, may I say that when the situation arose representatives of the Department of Justice, the Department of Agriculture, the War Department, and the Interior Department all met and agreed that something would have to be done, and they prepared this bill that is now before us. The bill was considered in the Senate and unanimously passed by that body. It was considered by the Public Lands Committee of the House and unanimously passed by that committee.

Mr. MARTIN of Massachusetts. How much money is involved?

Mr. ROBINSON of Utah. Very little.

Mr. MARTIN of Massachusetts. How much?

Mr. ROBINSON of Utah. I cannot say exactly. There are maybe 25 or 30 men involved who will get all the way from a few dollars up to perhaps a thousand dollars or more for their grazing privileges.

Mr. MARTIN of Massachusetts. Can the gentleman not give some kind of a guess?

Mr. ROBINSON of Utah. My guess would be there is not $10,000 involved in the whole matter. This is only a guess.

Mr. HOLMES. Will the gentleman yield?

Mr. ROBINSON of Utah. I yield to the gentleman from Massachusetts [Mr. HOLMES].

Mr. HOLMES. The gentleman says that these men who are now enjoying these grazing privileges paid nothing for them in the first place?

Mr. ROBINSON of Utah. No; that is not correct. They have paid for these grazing privileges. In some instances they have gone onto the land and they have made numerous improvements on the land and in some instances they have been grazing the land for a number of years.

Mr. HOLMES. In other words, they made a material expenditure in order to improve the land by fencing and doing other improvements to make it worth while?

Mr. ROBINSON of Utah. The gentleman is absolutely correct. Now, the Government comes along and proposes to take it, but cannot compensate them under the present law.

Mr. MURDOCK. Mr. Speaker, will the gentleman yield?

Mr. ROBINSON of Utah. I yield to the gentleman from Arizona.

Mr. MURDOCK. I rise to confirm what the chairman of the committee has just said, that this legislation has been worked out with all the departments concerned; in fact, the War Department has virtually asked for the legislation. It has been reported by a unanimous vote of the Committee on Public Lands. I think it is desirable legislation to facilitate the war program throughout the West.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. ROBINSON of Utah. I yield to the gentleman from Pennsylvania.

Mr. RICH. These public lands are leased by the Interior Department to cattlemen and sheepmen who want to use these lands for grazing purposes?

Mr. ROBINSON of Utah. That is correct.

Mr. RICH. Do these men pay in advance for the privilege of going onto these lands?

Mr. ROBINSON of Utah. Most of them pay in advance.

Mr. RICH. The Department makes a contract with these men to use the land for grazing purposes?

Mr. ROBINSON of Utah. That is correct.

Mr. RICH. The Federal Government owns the land. Now, the Army wants to use the land for bombing purposes or other purposes necessary for war. Does it in any way make a contribution to anyone who does not have a contract with the Government for grazing?

Mr. ROBINSON of Utah. No; it does not, to anyone who does not have a contract for grazing.

Mr. RICH. Then the only thing the War Department would do would be to pay for the actual amount of money invested in these lands by the individual through the Interior Department, is that correct?

Mr. ROBINSON of Utah. Largely so.

Mr. RICH. There is the point. We are not going to pay any more for the privilege of letting the Army do something, in connection with the Interior Department appropriation bill. If there is any "nigger in the woodpile" in that respect, this bill cannot go through, because we are not going to do that any more. We have been paying enough to people for things that belong to the Government. We are not going to let one branch of the Government pay individuals because a contract has been made or because somebody else has been using public lands. I do not think that is right, and I do not think it should be done.

Mr. ROBINSON of Utah. I agree with the gentleman. As far as I know, there is nothing in this bill that contemplates any such procedure.

Mr. RICH. I have a great deal of confidence in the gentleman from Utah, but if there is anything in this bill that in any way causes the Army to pay individuals for something because they happen to be on Government lands, then I am against the bill. I want to be so recorded. I hope you will not pass it through if that is the case.

Mr. ROBINSON of Utah. If I understand the gentleman correctly, I thoroughly agree with his position.

Mr. SMITH of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ROBINSON of Utah. I yield to the gentleman from Ohio.

Mr. SMITH of Ohio. The gentleman stated that the contracts are written in advance. Has the gentleman a copy of one of these contracts?

Mr. ROBINSON of Utah. No; I do not have a copy here.

Mr. SMITH of Ohio. What are the contents of these contracts? What do they provide?

Mr. ROBINSON of Utah. The contract provides that the landowner can go on these lands and graze his cattle or sheep for a certain payment.

Mr. SMITH of Ohio. I am talking about the Army contract now, to drop bombs on this land.

Mr. ROBINSON of Utah. The Army does not make any contract. The Army simply goes there and says, "We want this land for bombing purposes."

Mr. SMITH of Ohio. Then I did not understand. Have there been any figures mentioned in connection with this bill?

Mr. ROBINSON of Utah. I think figures have been mentioned, but I am not familiar with all the figures.

Mr. SMITH of Ohio. I am not quite satisfied with the presentation.

Mr. BULWINKLE. Mr. Speaker, will the gentleman yield?

Mr. ROBINSON of Utah. I yield to the gentleman from North Carolina.

Mr. SMITH of Ohio. If the gentleman does not care to discuss this with me, I will simply object.

Mr. BULWINKLE. The gentleman has yielded to me.

Mr. SMITH of Ohio. Very well, then, I will simply object, if that is the way the gentleman feels about it.

Mr. ROBINSON of Utah. The reason I yielded to the gentleman from North Carolina is that I thought perhaps he had a better explanation than I had in answer to the gentleman's question.

Mr. BULWINKLE. May I ask the gentleman this question: Suppose I have some cattle and have not paid the rent on the land. If the Army takes over that land, can I then bring a claim for speculative damages against the Government because I do not have a feeding place?

Mr. ROBINSON of Utah. The answer to that is, absolutely not. You have no right to bring any action against the Government for any grazing.

Mr. BULWINKLE. I am talking about the claims.

Mr. ROBINSON of Utah. No claim at all. You have no right at all, and the Department of Justice has so held. This bill gives you the right only to receive such sum as the Army wants to pay you.

Now I yield to the gentleman from Ohio.

Mr. SMITH of Ohio. I do not want to be understood as obstructing this program or as desiring merely to object. I am simply trying to find out what is involved in the way of money payments. It is true that these grazing lands are not costing the people who use them a great deal of money. What the lands are worth I do not know. However, I would like to have some figures to show what this will cost.

Mr ROBINSON of Utah. I yield to the gentleman from Arizona to reply to that. Many of the lands in question are in his State.

Mr. MURDOCK. This bill cannot set up figures or a formula for recompense, but it will be far less than what is given up. These areas are in all the Western States where the Taylor Grazing Act prevails. The public domain is used by cattlemen or livestock people under permits. The permits are cancelable by the Government, but rarely are canceled in peacetimes and are valuable. The cattlemen or the livestock people, the sheep men, too, have to pay the Government for the grazing permits. Now, however, the War Department wants to take over certain of these areas to use as bombing ranges. This means that all livestock there must be removed. The permits are canceled. This means that the livestock man is thrown out of that area and must go some place else to find other grazing lands or go out of business. Today the Government is calling upon western livestockmen to produce meat, hides, and wool in ever-increasing quantities. Our problem here is to facilitate the war effort in both respects by making quickly available to the War Department the needed areas without unfairness to stockmen and with the least maladjustment of livestock production. Now, all this legislation does is to permit the War Department to make financial adjustments with these stockmen not only for their patented lands but for the grazing permits which are canceled.

Mr. SMITH of Ohio. That answers the question. In other words, what we are really aiming at here is to compensate the people who rented this land for their losses.

Mr. BENNETT. Mr. Speaker, I should like to know if this is a matter to be considered by the House or is it just a private conference?

Mr. MARTIN of Massachusetts. Reserving the right to object, Mr. Speaker, if you are going to do all that the gentleman has just said you are going to do, it will come to more than $10,000.

Mr. ROBINSON of Utah. Much of this land is in the State of Arizona and also in Montana.

Mr. O'CONNOR. Mr. Speaker, will the gentleman yield?

Mr. ROBINSON of Utah. I yield to the gentleman from Montana.

Mr. O'CONNOR. I want to say in reply to the gentleman from Ohio [Mr. SMITH] and for his particular information and for the information of the gentleman from Massachusetts——

The SPEAKER. Is there objection to the request of the gentleman from Utah?

Mr. MARTIN of Massachusetts. I reserve the right to object, Mr. Speaker.

Mr. O'CONNOR. There is a lot of this territory in my State of Montana, and so far as paying for grazing in this territory by the stockmen is concerned, they all pay in advance all that it is worth.

Mr. MARTIN of Massachusetts. In what way?

Mr. O'CONNOR. Because this gives the Government the right to go on that territory and use it for bombing purposes.

Mr. MARTIN of Massachusetts. It is the Government's own land.

Mr. O'CONNOR. Yes; but the gentleman must understand that our stockmen get permits for running cattle and running sheep on them and they pay for those permits in advance from year to year, and the permittee has preferential rights that are very valuable to them.

Mr. MARTIN of Massachusetts. Why could not this all be adjusted when they make the yearly contracts?

Mr. O'CONNOR. Of course, at the time the permit is granted neither knows that it will be necessary to cancel them. Bear in mind that everything must give way to our war efforts.

Mr. MARTIN of Massachusetts. That is right and that is what we are trying to do.

Mr. O'CONNOR. Vested rights and everything else must give way when necessary and the purpose of this bill is to give the War Department the right to go on that land and use it regardless of the permits, by paying the damages.

Mr. MARTIN of Massachusetts. The Government has that power now. The War Department can go on this land and use it for war purposes, but this bill provides payment to the grazers.

Mr. O'CONNOR. I understand that while the War Department may have the power to do that without pay, at the same time the man who pays for the use of the land from year to year, when we are at peace, has some preferential rights in the matter and his rights should be respected so far as pay is concerned, as in many instances they are vital to him.

Mr. MARTIN of Massachusetts. I think the gentleman should withdraw his bill for the moment or until we know more about this matter.

Mr. MURDOCK. May I say that the leases are for 10-year periods?

Mr. ROBINSON of Utah. Mr. Speaker, I withdraw the request at this particular time.

DEPARTMENT OF LABOR-FEDERAL SECURITY AGENCY APPROPRIATION BILL

Mr. HARE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 7181) making appropriations for the Department of Labor, the Federal Security Agency and related independent agencies for the fiscal year ending June 30, 1943, and for other purposes, with Senate amendments, disagree to the Senate amendments and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

Mr. TABER. Mr. Speaker, reserving the right to object, has the gentleman from South Carolina discussed this matter with the minority members?

Mr. HARE. Yes.

Mr. ENGEL. Reserving the right to object, Mr. Speaker, the subcommittee had a meeting this morning and went over the bill.

Mr. TABER. And the request is agreeable to the gentleman?

Mr. ENGEL. Yes.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. HARE, TARVER, THOMAS of Texas, CANNON of Missouri, ENGEL, and KEEFE.

EXTENSION OF REMARKS

Mr. LEAVY. I have two requests to make, Mr. Speaker. I ask unanimous consent to extend my remarks in the RECORD and include an article from an issue of Pic magazine dealing with the work of my colleague the gentleman from California [Mr. VOORHIS].

The SPEAKER. Is there objection?

There was no objection.

Mr. LEAVY. Also, Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include a letter from a constituent of mine on the subject of undermining Congress.

The SPEAKER. Is there objection?

There was no objection.

Mr. BLAND. Mr. Speaker, I ask unanimous consent to extend my remarks in the Appendix of the RECORD by inserting an address I delivered at the graduating exercises of the United States Coast Guard Academy on June 19.

The SPEAKER. Is there objection?

There was no objection.

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include a suggested code for critics during wartime, which was prepared by Archibald MacLeish, Gordon M. Allport, and Dr. H. H. Murray, of Boston. A part of it is in parallel columns, and I ask unanimous consent that it be so printed.

The SPEAKER. Is there objection?

There was no objection.

INTERIOR DEPARTMENT APPROPRIATION BILL, 1943—CONFERENCE REPORT

Mr. JOHNSON of Oklahoma. Mr. Speaker, I call up the conference report upon the bill (H. R. 6845), making appropriations for the Department of the Interior for the fiscal year ending June 30, 1943, and for other purposes, and I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6845) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1943, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 4, 5, 6, 8, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 30, 31, 32, 33, 37, 39, 43, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 61, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 91, 96, 105, 113, 114, 115, 118, 119, 123, 124, 125, 127, 128, 129, 130, 131, 135, 144, 149, 150, 151, 152, 153, 155, 158, 163, 172, 174, 179, 180, 184, 189, 190, 193, 194, 195, 196, 197, 199, 202, 207, 208, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, the operations of any agency designated to receive and market peanuts may be separate from or combined with operations of other agencies."

(3) Section 359 (d)[59] is amended to read as follows: "The word 'peanuts' for the purposes of this Act shall mean all peanuts produced, excluding any peanuts which it is established by the producer or otherwise, in accordance with regulations of the Secretary, were not picked or threshed either before or after marketing from the farm."

(4) Section 301 (b) (13) (B)[60] is amended by inserting after the word "cotton" wherever it appears therein the words "or peanuts" and by adding at the end thereof the following new sentence "For 1942, the normal yield for any county, in the case of peanuts, shall be the average yield per acre for peanuts for the county, adjusted for abnormal conditions, during the years 1936–1940, inclusive, except that for any county in which the years 1935–1939, inclusive, are equally as representative, such period may be used in determining the normal yields for counties in the State."

(5) Section 301 (b) (13) (E)[60] is amended by deleting the word "or" after the word "wheat" and before the word "cotton" wherever it appears therein and by inserting after the word "cotton" wherever it appears therein the words "or peanuts" and by adding after the first sentence thereof the following new sentence: "For 1942, the normal yield for any farm, in the case of peanuts, shall be the average yield per acre of peanuts for the farm, adjusted for abnormal conditions, during the years 1936–1940, inclusive, except that for any county in which the years 1935–1939, inclusive, are equally as representative, such period may be used in determining normal yields for farms in the county."

Approved, July 9, 1942.

PUBLIC LANDS USED FOR WAR PURPOSES—GRAZING PERMITS

CHAPTER 500—2D SESSION

[PUBLIC LAW 663—77TH CONGRESS]

[S. 2599]

An Act authorizing the head of the department or agency using the public domain for war purposes to compensate holders of grazing permits and licenses for losses sustained by reason of such use of public lands for war purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

Whenever use for war purposes of the public domain or other property owned by or under the control of the United States prevents its use for grazing, persons holding grazing permits or licenses and persons whose grazing permits or licenses have been or will be canceled because of such use shall be paid out of the funds appropriated or allocated for such project such amounts as the head of the department or agency so using the lands shall determine to be fair and reasonable for the losses suffered by such persons as a result of the use of such lands for war purposes. Such payments shall be deemed payment in full for such losses. Nothing herein contained shall be construed to create any liability not now existing against the United States.

Approved, July 9, 1942.

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[59] 7 U.S.C.A. § 1359.

[60] 7 U.S.C.A. § 1301.

S. 2584—Continued.
6426.—Referred to House Committee on Public Buildings and Grounds, 6518.—Reported back (H. Rept. 2470), 7191.—Debated, 7602.—Passed House, 7732.—Examined and signed, 7786, 7792.—Presented to the President, 7916.—Approved [Public, No. 733], 8097.

S. 2585—To provide that loans on the 1942 crop of corn, wheat, rice, cotton, tobacco, and peanuts shall be made at a rate equal to the parity price.
Mr. Bankhead and Mr. Russell; Committee on Agriculture and Forestry, 4974.—Reported back (S. Rept. 1479), 5121.—Debated, 5926, 5966, 5975, 5982-5988, 6005-6013, 6020-6023, 6024.—Passed Senate, 6029. Referred to House Committee on Agriculture, 6074.—Reported back (H. Rept. 2328), 6071, 6074.

S. 2586—To amend sections 1 and 3 of the act entitled "An act to authorize the President to requisition certain articles and materials for the use of the United States, and for other purposes," approved October 10, 1940 (54 Stat. 1090), to continue the act in effect during the existing war, and for other purposes.
Mr. Thomas of Utah; Committee on Military Affairs, 4974.—Reported with amendments (S. Rept. 1493), 5317.—Amended and passed Senate; title amended, 5430-5431.—Passed House (in lieu of H. R. 7292), 5659.—See Senate Concurrent Resolution 29, 5681.—Examined and signed, 5835, 5788.—Presented to the President, 5838.—Approved [Public, No. 643], 5963.

S. 2587—Relating to the computation of retirement pay of personnel of the Lighthouse Service, and for other purposes.
Mr. McNary; Committee on Commerce, 5121.

S. 2588—For the relief of certain persons who suffered losses as the result of a fire in the State of Minnesota.
Mr. Shipstead; Committee on Claims, 5121.

S. 2589—Relating to the garnishment of salaries or other compensation of civil officers and employees of the United States, its Territories or possessions, or the District of Columbia.
Mr. Holman; Committee on the Judiciary, 5121.

S. 2590—To amend section 13 (d) of the Railroad Unemployment Insurance Act.
Mr. Chandler and Mr. Barkley; Committee on Interstate Commerce, 5121.—Reported, under authority of the order of the Senate of June 22, 1942, by Mr. Hill, with an amendment (S. Rept. 1515), 5435, 5529.—Indefinitely postponed (H. R. 7212 passed in lieu), 5565.

S. 2591—To authorize the exchange of lands between the War Department and the Department of the Interior.
Mr. Thomas of Utah; Committee on Military Affairs, 5121.—Reported back (S. Rept. 1493) under authority of the order of June 15, 1942, 5316.—Passed Senate, 5919.—Referred to House Committee on Military Affairs, 6202.

S. 2592—To provide for the better administration of officer personnel of the Navy and Marine Corps during the existing war, and for other purposes.
Mr. Walsh; Committee on Naval Affairs, 5121.—Reported, under authority of the order of the Senate of June 22, 1942, by Mr. Walsh, with amendments (S. Rept. 1510), 5435, 5529.—Indefinitely postponed (H. R. 7160 passed in lieu), 5593.

S. 2593—To provide for the reimbursement of certain Navy personnel and former Navy personnel for personal property lost or damaged as a result of the fire which destroyed the Administration Building, Naval Operating Base, Norfolk, Va., on January 26, 1942.

S. 2593—Continued.
Mr. Walsh, Committee on Naval Affairs, 5121.—Reported with amendments (S. Rept. 1506), 5403.—Amended and passed Senate, 5921.—Referred to House Committee on Claims, 6002.—Reported back (H. Rept. 2539), 8194.—Passed House, 9214.—Examined and signed, 9350, 9365.—Presented to the President, 9467.—Approved [Private, No. 556], 9464.

S. 2594—For the relief of the State of Idaho.
Mr. Clark of Idaho; Committee on Claims, 5187.

S. 2595—To promote the general welfare through the appropriation of funds to assist the States and Territories in providing more effective programs of public kindergarten or kindergarten and nursery-school education.
Mr. Pepper; Committee on Education and Labor, 5187.

S. 2596—Relating to the appointment of former deputy marshals of the United States as honorary deputy marshals of the United States.
Mr. Lee; Committee on the Judiciary, 5187.

S. 2597—To provide for the appointment of chiropody (podiatry) officers of the United States Army.
Mr. Reynolds; Committee on Military Affairs 5183.

S. 2598—To amend the Communications Act of 1934, as amended, to permit consolidations and mergers of domestic telegraph carriers, and for other purposes.
Mr. McFarland; placed on the calendar (S. Rept. 1490), 5316.—Debated, 5417.—Passed Senate, 5423.—Referred to House Committee on Interstate and Foreign Commerce, 5521.—Reported back (H. Rept. 2664), 9186.

S. 2599—Authorizing the head of the department or agency using the public domain for war purposes to compensate holders of grazing permits and licenses for losses sustained by reason of such use of public lands for war purposes.
Mr. McFarland, Mr. Hatch, Mr. Johnson of Colorado, Mr. Hayden, Mr. Murdock, Mr. Murray, Mr. Schwartz, Mr. Thomas of Utah, Mr. Clark of Idaho, Mr. McCarran, and Mr. Holman; Committee on Public Lands and Surveys, 5317.—Reported with amendments (S. Rept. 1503), 5403.—Amended and passed Senate; title amended, 5594.—Debated in House, 5651.—Passed House (H. R. 7265), 5937.—Examined and signed, 6004, 6054.—Presented to the President, 6057.—Approved [Public, No. 663], 6075.

S. 2600—To expedite the prosecution of the war by making provision for an increased supply of rubber manufactured from alcohol produced from agricultural or forest products.
Mr. Gillette, Mr. Wheeler, Mr. Thomas of Oklahoma, Mr. McNary, and Mr. Norris; Committee on Agriculture and Forestry, 5317.—Reported back (S. Rept. 1516), 5529.—Debated, 5924, 6424, 6433-6443, 6481.—Passed Senate, 6495.—Passed House (in lieu of H. R. 7257), 6614.—Examined and signed, 6691, 6722.—Presented to the President, 6726.—Vetoed (S. Doc. 243), 6752.—Message laid before the Senate, 6752.

S. 2601—Prohibiting the distribution of certain information with respect to agricultural commodities.
Mr. Thomas of Oklahoma; Committee on Agriculture and Forestry, 5317.

S. 2602—To amend the Canal Zone Code.
Mr. Clark of Missouri; Committee on Interoceanic Canals, 5317.—Reported with amendment (S. Rept. 1545), 6114.—Indefinitely postponed (H. R. 7188 passed in lieu), 6521.

S. 2603—To provide for payment by the United States of certain delinquent lease rentals upon lands in the Standing Rock Indian Reservation.
Mr. Langer; Committee on Indian Affairs, 5317.

S. 2604—Granting the consent of Congress to the States of Colorado, Kansas, and Nebraska to negotiate and enter into a compact for the division of the waters of the Republican River.
Mr. Norris; Committee on Irrigation and Reclamation, 5317.—Reported back (S. Rept. 1522), 5529.—Passed Senate, 5595.—Referred to House Committee on Irrigation and Reclamation, 5663.—Passed House (in lieu of H. R. 7255), 6662.—Examined and signed, 6723, 6741.—Presented to the President, 6743.—Approved [Public, No. 696], 6742.

S. 2605—To authorize temporary appointments in the Army of the United States of officers on duty with the Medical Administrative Corps.
Mr. Thomas of Utah; Committee on Military Affairs, 5317.

S. 2606—To amend the Selective Training and Service Act of 1940 by making it a criminal offense to possess unlawfully or to reproduce various certificates issued pursuant thereto.
Mr. Thomas of Utah; Committee on Military Affairs, 5317.—Reported back (S. Rept. 1528), 5668.—Passed Senate, 5925.—Referred to House Committee on Military Affairs, 6002.

S. 2607—To provide for the establishment and operation of a Military Aviation Academy and a Naval Aviation Academy for training persons for service as commissioned officers in the military and naval forces.
Mr. Stewart, Committee on Military Affairs, 5317, 5319.

S. 2608—For the relief of Dennis Hall.
Mr. Brown; Committee on Claims, 5317.—Reported back (S. Rept. 1757), 9136.—Passed Senate, 9142.—Passed House (in lieu of H. R. 7289), 9223.—Examined and signed, 9350, 9366.—Presented to the President, 9467.—Approved [Private, No. 557], 9464.

S. 2609—For the relief of Mrs. Steve York.
Mr. Chandler; Committee on Claims, 5317.

S. 2610—For the relief of Richard Barker.
Mr. Ellender; Committee on Claims, 5317.—Reported with amendment (S. Rept. 1833), 9466.—Amended and passed Senate, 9424.—Referred to House Committee on Claims, 9537.

S. 2611—For the relief of Grover C. Wedgwood.
Mr. Bone; Committee on Claims, 5403.

S. 2612—For the relief of Jean M. King.
Mr. Ellender; Committee on Claims, 5403.

S. 2613—For the relief of C. T. MacNeille, Andrew L. Yerger, Edna M. Yerger, William Yerger, Edward M. Yerger, Maxwell Plantations, Inc., and Moberly & Son.
Mr. Ellender; Committee on Claims, 5403.

S. 2614—For the relief of Jack Stanley Long.
Mr. McNary; Committee on Finance, 5403.

S. 2615—Relating to legislative and budgetary control of expenditures for publicity activities of the executive branch of the Federal Government, and for other purposes.
Mr. Tydings; Committee on Appropriations, 5403.

S. 2616—To provide relief for members of the American Volunteer Group in China and for their dependents.
Mr. Hill; Committee on Military Affairs, 5403.

S. 2617—For the relief of Thomas J. O'Connor.
Mr. Walsh; Committee on Claims, 5403.

EXHIBIT B

UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 80th CONGRESS
SECOND SESSION

VOLUME 94—PART 4

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UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1948

within the territorial jurisdiction of any foreign country without the consent of the government thereof. Nothing in this act shall be deemed to limit the authority granted by the provisions of section 77 of the act of January 12, 1895 (28 Stat. 621), or by section 3 (f) of the Air Commerce Act of 1926 (49 U. S. C. 173), or by title III of the Civil Aeronautics Act of 1938, as amended (49 U. S. C. 451 and the following)

CONSTRUCTION OF CHAPEL AND LIBRARY AT MERCHANT MARINE ACADEMY

The bill (H. R. 3569) to authorize the construction of a chapel and a library at the United States Merchant Marine Academy at Kings Point, N. Y., and to authorize the acceptance of private contributions to assist in defraying the cost of construction thereof, was considered, ordered to a third reading, read the third time, and passed.

APPOINTMENT OF UNITED STATES COMMISSIONERS FOR CERTAIN NATIONAL PARKS

The bill (H. R. 2645) to provide that appointments of United States commissioners for the Isle Royale, Hawaii, Mammoth Cave, and Olympic National Parks shall be made by the United States district courts without the recommendation and approval of the Secretary of the Interior was considered, ordered to a third reading, read the third time, and passed.

ESTABLISHMENT OF CERTAIN NATIONAL CEMETERIES

The Senate proceeded to consider the bill (S. 1856) to provide for the utilization as national cemeteries of surplus Army Department-owned military real property at Fort Devens, Mass.; Fort Logan, Colo.; and Fort Lewis, Wash., which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, in line 8, after the word "by", to strike out "existing"; and after the word "law", to strike out "(14 U. S. C. 281)."

So as to make the bill read:

Be it enacted, etc., That when the Secretary of the Army determines that there is need for an additional cemetery or cemeteries for the burial of members of the armed forces of the United States dying in the service or former members whose last discharge therefrom was honorable and certain other persons as provided for by law, he is authorized to utilize such of the federally owned lands under the jurisdiction of the Department of the Army at Fort Devens, Mass.; Fort Logan, Colo.; and Fort Lewis, Wash., as are not needed for military purposes for the establishment thereon of a national cemetery or cemeteries.

Sec. 2. Upon the selection by the Secretary of the Army of any lands, as provided in section 1 hereof, he is authorized and directed to establish thereon a national cemetery and to provide for the care and maintenance of such cemetery. No national cemetery established pursuant to this act shall have an area in excess of 640 acres.

Sec. 3. The Secretary of the Army is authorized to prescribe such regulations as he may deem necessary for the administration of this act.

Sec. 4. There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry into effect the purposes of this act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

COMPENSATION OF HOLDERS OF GRAZING PERMITS AND LICENSES

The bill (S. 1874) authorizing the head of the department or agency using the public domain for national defense purposes to compensate holders of grazing permits and licenses for losses was announced as next in order.

Mr. BUSHFIELD. Let the bill go over.

The PRESIDENT pro tempore. The bill will be passed over.

Mr. HATCH subsequently said: Mr. President, when Calendar 1091, Senate bill 1874, was reached, I was temporarily absent from the Chamber. I understand the Senator from South Dakota [Mr. BUSHFIELD] asked that the bill go over. Since then I have talked with the Senator and he advises me that he is willing to have the bill considered at this time.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 1874) authorizing the head of the department or agency using the public domain for national defense purposes to compensate holders of grazing permits and licenses for losses, which had been reported from the Committee on Interior and Insular Affairs with an amendment, to strike out all after the enacting clause and to insert:

That the act of July 9, 1942 (56 Stat. 654, 43 U. S. C., sec. 315q), is amended by inserting the words "or national defense" between the word "war" and the word "purposes" wherever the latter two words appear in that act.

Sec. 2. This amendment is to take effect as of July 25, 1947.

Mr. BUSHFIELD. Mr. President, I am very happy to withdraw my objection, at the request of the Senator from New Mexico.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

UINTA AND WASATCH NATIONAL FORESTS, UTAH

The bill (S. 2240) to include certain lands within the Uinta and Wasatch National Forests, Utah, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the boundaries of the Uinta National Forest are hereby extended to include the following-described lands and, subject to valid and existing claims, any lands of the United States included therein are hereby made parts of said national forest and hereafter shall be subject to all laws and regulations applicable thereto:

SALT LAKE MERIDIAN, UTAH

Township 5 south, range 3 east, sections 24, 25, 26, and 34; section 35, north half; section 36; special sections 38 and 39.

Township 6 south, range 3 east, section 4, north half; section 5, north half, section 6.

Township 4 south, range 4 east, sections 22 to 27, inclusive; sections 33 to 36, inclusive.

Township 5 south, range 4 east, sections 1 to 5, inclusive; sections 7 to 36, inclusive.

Township 6 south, range 4 east, sections 2 to 6, inclusive; sections 8 to 10, inclusive; special sections 37, 38, and 39.

Township 3 south, range 5 east, sections 1 to 4, inclusive; section 5, lots 1, 2, 3, 5, 6, 7, 9, 10, and 11, southwest quarter northeast quarter, southeast quarter northwest quarter, northeast quarter southwest quarter; section 8, east half, east half west half; sections 9 to 16, inclusive; section 17, east half east half; section 20, lots 1, 2, 3, and 4; sections 21 to 27, inclusive; section 28, lots 1, 2, 3, and 4; sections 35 and 36.

Township 4 south, range 5 east, section 1; sections 12 and 13; sections 19 to 36, inclusive.

Township 5 south, range 5 east, all of township.

Township 3 south, range 6 east, sections 7 to 9, inclusive; sections 14 to 36, inclusive.

Township 4 south, range 6 east, all of township.

UINTA SPECIAL MERIDIAN, UTAH

Township 1 north, range 9 west, sections 28 to 33, inclusive.

Township 1 south, range 9 west, sections 4 to 9, inclusive.

Township 2 south, range 9 west, sections 4 to 9, inclusive; sections 16 to 21, inclusive; sections 28 to 33, inclusive.

Township 5 south, range 9 west, sections 32 and 33.

Township 6 south, range 9 west, sections 4, 5, 8, 9, 16, 17, 20, and 21.

Township 2 south, range 10 west, sections 1 to 3, inclusive; sections 10 to 15, inclusive; sections 19 to 36, inclusive.

Sec. 2. The boundaries of the Wasatch National Forest are hereby extended to include the following-described lands and, subject to valid and existing claims, any lands of the United States included therein are herein made parts of said national forest and hereafter shall be subject to all laws and regulations applicable thereto:

SALT LAKE MERIDIAN, UTAH

Township 5 south, range 2 east, section 22, lot 6, west half, west half southeast quarter; section 27, east half; section 35, north half; section 36.

Township 2 south, range 3 east, section 26, east half.

Township 4 south, range 3 east, sections 25 and 35.

Township 5 south, range 3 east, sections 1 to 3, inclusive; sections 10 to 15, inclusive; sections 22, 23, and 27; sections 31 to 3[illegible], inclusive; special section 37.

Township 2 south, range 4 east, sections 31 to 34, inclusive.

Township 3 south, range 4 east, sections 2 to 11, inclusive; sections 14 to 20, inclusive; sections 29 to 32, inclusive.

Township 4 south, range 4 east, section [illegible], north half, southwest quarter; sections 5 to 8, inclusive; section 9, west half, sections 1[illegible] to 21, inclusive; sections 28 to 32, inclusive.

Township 5 south, range 4 east, section 6.

RENT CONTROL FOR THE DISTRICT OF COLUMBIA—BILL PASSED OVER

The bill (S. 2195) to extend for the period of 1 year the provisions of the District of Columbia Emergency Rent Act, approved December 2, 1941, as amended, was announced as next in order.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had

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UNITED STATES OF AMERICA

Congressional Record

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RINTING OFFICE, WASHINGTON, 1948

position of potassium," approved October 2, 1917.

Mr. CHENOWETH. Mr. Speaker, I believe a rule has been granted on this bill, and it is now on the calendar. Therefore, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

COMPENSATING HOLDERS OF GRAZING PERMITS

The Clerk called the bill (S. 1874) authorizing the head of the department or agency using the public domain for national-defense purposes to compensate holders of grazing permits and licenses for losses sustained by reason of such use of public lands for national-defense purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the act of July 9, 1942 (56 Stat. 654, 43 U. S. C., sec 315p), is amended by inserting the words "or national defense" between the word "war" and the word "purposes" wherever the latter two words appear in that act.

Sec. 2. This amendment is to take effect as of July 25, 1947.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DEL NORTE COUNTY, CALIF.

The Clerk called the bill (H. R. 4874) authorizing the Secretary of the Interior to issue patent to the county of Del Norte, State of California, to Pelican Rock in Crescent City Harbor, Del Norte County, Calif.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized to issue patent to the county of Del Norte, State of California, to Pelican Rock, containing about 1 acre, located northerly from Whaler Island in Crescent City Harbor, Del Norte County, Calif., for the purposes of a public wharf or for such other purposes as it may be of use in the construction, maintenance, and operation of Crescent City Harbor, Del Norte County, Calif.

Sec. 2. That the Secretary of the Interior is hereby directed to take such action as may be necessary to carry out the purposes of this act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That all the right, title, and interest of the United States in and to the island known as Pelican Rock, containing an estimated area of about 1 acre, and situated in the Pacific Ocean in the northern portion of section 33, township 16 north, range 1 west, Humboldt meridian, California, approximately a quarter of a mile north of Whaler Island, shown to be located in latitude 41 degrees 44 minutes 40 seconds north, and longitude 124 degrees 11 minutes 10 seconds west, on United States Coast and Geodetic Survey Chart entitled 'St. George Reef and Crescent City, Calif.,' is hereby conveyed to the County of Del Norte, State of California, for the purpose of a public wharf or for such other purposes as it may be of use in the construction, maintenance, and operation of Crescent City Harbor."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to transfer Pelican Rock in Crescent City Harbor, Del Norte County, Calif., to that county."

A motion to reconsider was laid on the table.

PUBLIC-LAND LAWS IN OKLAHOMA

The Clerk called the bill (H. R. 5071) to extend the public-land laws of the United States to certain lands, consisting of islands, situated in the Red River in Oklahoma.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the public-land laws of the United States be, and the same are hereby, extended to the public lands in that part of the Red River between the medial line and the south bank of the river, in Oklahoma, between the ninety-eighth meridian and the east boundary of the territory established as Greer County by the act of May 4, 1896 (29 Stat. 113): *Provided*, That such lands shall not be subject to disposition, settlement, or occupation until after the same have been classified and opened to entry, and other disposal by the Secretary of the Interior according to law.

Sec. 2. The Secretary of the Interior is hereby authorized to recognize equitable claims to such lands based on settlement made prior to January 1, 1934, and all homestead entries of such lands, the allowance of which was erroneous because the lands were not subject to entry, and all suspended entries and applications to make final proof, are hereby validated if otherwise regular.

Sec. 3. Patents on nonmineral entries, selections, or locations of such lands shall contain a reservation to the United States of all minerals therein, together with the right to prospect for, mine, and remove the same under applicable laws relating to such minerals: *Provided*, That the proceeds accruing to the United States from leases of the oil and gas deposits in such lands shall continue to be disposed of as provided by existing law.

Sec. 4. Except as to existing valid rights, the act of March 4, 1923 (42 Stat. 1448) is hereby repealed.

With the following committee amendments:

On page 2, line 5, insert "and directed."

Page 2, line 10, after the word "regular", insert "as of the date of the regular application."

Page 2, line 12, strike out all of section 3, and page 2, line 20, strike out "4" and insert "3."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SURPLUS GOVERNMENT LANDS IN THE STATES OF GEORGIA AND TENNESSEE

The Clerk called the bill (H. R. 5936) to provide for the addition of certain surplus Government lands to the Chickamauga and Chattanooga National Military Park, in the States of Georgia and Tennessee, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, effective upon publication of notice, as hereinafter provided, there shall be added to the Chickamauga and Chattanooga National Military Park, a strip of land, comprising not more than 100 acres, lying generally north of the present south line of Fort Oglethorpe and westward from the southeast corner thereof. The exact boundaries of the area added to the park shall be agreed upon by the Administrator, War Assets Administration, and the Director of the National Park Service.

When the boundaries of the aforesaid area have been agreed upon, the War Assets Administration shall furnish to the National Park Service a legal description of the lands to be added to the park, together with a map showing the boundaries and the acreage of the area.

Upon the receipt by the National Park Service of such legal description and map of the area, public notice that such lands are to become a part of the Chickamauga and Chattanooga National Military Park, effective on the date of publication of such notice, shall be given in the Federal Register.

The bill was ordered to be engrossed and read a third time, was read the third time, and pased, and a motion to reconsider was laid on the table.

FORT VANCOUVER NATIONAL MONUMENT

The Clerk called the bill (H. R. 5957) to provide for the establishment of the Fort Vancouver National Monument, in the State of Washington, to include the site of the old Hudson's Bay Co. stockade, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That, for the purpose of establishing a Federal area of national historical importance for the benefit of the people of the United States, to be known as the "Fort Vancouver National Monument," the Administrator of the War Assets Administration and the Secretary of the Army are authorized to transfer to the Secretary of the Interior, without exchange of funds, administrative jurisdiction over such federally owned lands and other property, real or personal, under their jurisdiction, including the site of the old Hudson's Bay Co. stockade in the State of Washington, as they shall find to be surplus to the needs of their respective agencies, such properties to be selected, with their approval, by the Secretary of the Interior for inclusion within the national monument.

Sec. 2. The total area of the national monument as established or as enlarged by transfers pursuant to this act shall not exceed 125 acres. Establishment of the monument shall be effective, upon publication in the Federal Register of notice of such establishment, following the transfer to the Secretary of the Interior of administrative jurisdiction over such lands as the Secretary of the Interior shall deem to be sufficient for purposes of establishing the national monument. Additional lands may be added to the monument in accordance with the procedure prescribed in section 1 hereof, governing surplus properties, or by donation, subject to the maximum acreage limitation prescribed by this act, upon publication of notice thereof in the Federal Register.

Sec. 3. The administration, protection, and development of the aforesaid national monument shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of the act of August 25, 1916 (39 Stat. 535), entitled "An act to establish a National Park Service, and for other purposes," as amended.

With the following committee amendment:

Page 2, line 10, strike out "125" and insert "90."

Calendar No. 1091

80th Congress } SENATE { Report
2d Session } { No. 1050

AUTHORIZING THE HEAD OF THE DEPARTMENT OR AGENCY USING THE PUBLIC DOMAIN FOR NATIONAL DEFENSE PURPOSES TO COMPENSATE HOLDERS OF GRAZING PERMITS AND LICENSES FOR LOSSES SUSTAINED BY REASON OF SUCH USE OF PUBLIC LANDS FOR NATIONAL DEFENSE PURPOSES

April 2 (legislative day, March 29), 1948.—Ordered to be printed

Mr. Butler, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 1874]

The Senate Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1874) authorizing the head of the department or agency using the public domain for national-defense purposes to compensate holders of grazing permits and licenses for losses sustained by reason of such use of public lands for national-defense purposes, having considered the same, report favorably thereon with the following amendment, and with the recommendation that the bill, as amended, do pass:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Act of July 9, 1942 (56 Stat. 654, 43 U. S. C., sec. 315q) is amended by inserting the words "or national defense" between the word "war" and the word "purposes" wherever the latter two words appear in that Act.

Sec. 2. This amendment is to take effect as of July 25, 1947.

The bill is designed to authorize compensation to grazing permittees and licensees on the Federal range, wherever their authorization to use the range lands is terminated because of the need of those lands for national defense purposes. Provision is made for compensatory payment for losses sustained as a result of such cancellation of grazing privileges. The proposed legislation would enable users of the public range to continue livestock operations in instances where they might otherwise be driven out of business.

The bill would, in effect, extend existing legislation which authorizes payment only if the land is used by the United States for war purposes (act of July 9, 1942, 56 Stat. 654, 43 U. S. C., sec. 315q). Since the 1942 act is still on the statute books, it was suggested by the Interior Department, in its favorable report on the bill, that S. 1874 be consolidated with the existing legislation. The committee has, accordingly, so amended the bill.

Further detailed information regarding this bill is carried in the report of the Interior Department, which is hereinbelow set forth in full and made a part of this report.

THE SECRETARY OF THE INTERIOR,
Washington, March 17, 1948.

Hon. HUGH BUTLER,
Chairman, Committee on Interior and Insular Affairs,
United States Senate.

MY DEAR SENATOR BUTLER: This is in further reply to your request for a report on S. 1874, a bill authorizing the head of the department or agency using the public domain for national defense purposes to compensate holders of grazing permits and licenses for losses sustained by reason of such use of public lands for national defense purposes.

I recommend that the bill be enacted if the technical changes noted below are adopted.

I fully agree with the objectives of the proposed legislation, which is designed to authorize compensation to grazing permittees and licensees on the Federal range, wherever their authorization to use the range lands is terminated because of the need of those lands for national defense purposes. By providing compensatory payment for losses sustained as a result of such cancellation of grazing privileges, the legislation would enable users of the public range to continue livestock operations in instances where they might otherwise be driven out of business. In view of the severe meat-supply shortages, the desirability and need for taking effective measures to promote the livestock industry are, of course, as acute today as they were during the height of the war.

The bill would, in effect, extend existing legislation which authorizes payment only if the land is used by the United States for war purposes (act of July 9, 1942, 56 Stat. 654, 43 U. S. C., sec. 315q). The authority under the 1942 act was terminated on July 25, 1947, by section 3 of Senate Joint Resolution 123, approved on that date (Public Law 239, 80th Cong., 61 Stat. 449, 454). The 1942 act itself, however, was not repealed, but is still in the body of permanent law, the authority thereunder becoming available again in the event of any future conflict. (See S. Rept. No. 339, 80th Cong., at p. 1 of pt. II.)

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Since the 1942 act is still on the statute books, it is suggested that the bill, S. 1874, be consolidated with the existing legislation. It is also recommended that the expiration date in section 2 of the bill be eliminated, since it is not unlikely that the need for the lands involved for national defense purposes may continue beyond June 30, 1952. The following substitute wording for S. 1874, which I suggest be inserted after the enacting clause, would effectuate my recommendations:

"That the Act of July 9, 1942 (56 Stat. 654, 43 U. S. C., sec. 315q) is amended by inserting the words 'or national defense' between the word 'war' and the word 'purposes' wherever the latter two words appear in that Act.

"SEC. 2. This amendment is to take effect as of July 25, 1947."

This Department has not received clearance from the Bureau of the Budget on the submission of this report. Therefore, I cannot advise you concerning the relationship of the views expressed herein to the program of the President.

Sincerely yours,

J. A. KRUG,
Secretary of the Interior

~~should indicate an interest in such operations, it is conceivable that the Government would have to supply transportation until the private operators would be able to procure sufficient equipment to absorb the additional traffic. It is recommended that the authority to provide transportation for personnel of private plants be authorized during time of war or national emergency. The following is a suggested amendment to the bill H.R. 4036.~~

~~Page 1, line 8, after the word "war" insert the words "or national emergency declared by the Congress or the President".~~

~~Under the provisions of title II of the National Security Act of 1947, approved July 26, 1947, there was established a National Military Establishment, consisting of the Department of the Army, the Department of the Navy, and the Department of the Air Force. The heads of these executive departments are the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force. It is recommended that the authority contained in the bill, H.R. 4036, be extended to the Department of the Air Force. In order to accomplish this the following amendments to the bill, H.R. 4036, will be necessary:~~

~~Strike out the words "Secretary of War or the Secretary of the Navy", wherever appearing, and substitute in lieu thereof the following: "Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force".~~

~~Strike out the words "War Department or the Navy Department", wherever appearing, and substitute in lieu thereof the following: "Department of the Army, the Department of the Navy, or the Department of the Air Force".~~

~~Strike out the words "Secretary of War and the Secretary of the Navy," wherever appearing, and substitute in lieu thereof the following: "Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force".~~

~~Subject to the foregoing, the Navy Department recommends enactment of the bill, H.R. 4036.~~

~~The Department of the Army and the Department of the Air Force concur in the contents of this report.~~

The Navy Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to the Congress.

Sincerely yours,

M. E. ANDREWS,
Acting Secretary of the Navy.

NATIONAL DEFENSE LANDS—COMPENSATION FOR CANCELLATION OF PERMITS OR LICENSES

For text of Act see p. 291

Senate Report No. 1050, Apr. 2, 1948 [To accompany S. 1874]

House Report No. 1858, May 5, 1948 [To accompany S. 1874]

The House Report repeats in substance the Senate Report

House Report No. 1858

THE Committee on Public Lands, to whom was referred the bill (S. 1874) authorizing the head of the department or agency using the public domain for national defense purposes to compensate holders of grazing permits or licenses for losses sustained by reason of such use of public lands for national defense purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

NATIONAL DEFENSE LANDS

EXPLANATION OF THE BILL

The purpose of this bill is to authorize compensatory payments to grazing permittees and licensees on the Federal range wherever their permission to use the range lands is terminated because of the need for those lands for national-defense purposes, thereby enabling users of the public range to continue livestock operations in instances where they might otherwise be forced to cease business operations.

In effect, the bill extends existing legislation which authorizes payment only if the land is used by the United States for war purposes. Such land is now being utilized by the Federal Government for national-defense purposes and it appears inequitable to the Committee on Public Lands for present range users to suffer financial losses due to circumstances over which they have no control.

Further detailed information regarding S. 1874 is given in the favorable report of the Department of the Interior, addressed to the chairman of the Senate Committee on Interior and Insular Affairs, which is set forth below and is made a part of this report.

The Committee on Public Lands unanimously recommend the enactment of this legislation.

THE SECRETARY OF THE INTERIOR,
Washington, March 17, 1948.

Hon. HUGH BUTLER,
Chairman, Committee on Interior and Insular Affairs,
United States Senate.

MY DEAR SENATOR BUTLER: This is in further reply to your request for a report on S. 1874, a bill authorizing the head of the department or agency using the public domain for national-defense purposes to compensate holders of grazing permits and licenses for losses sustained by reason of such use of public lands for national-defense purposes.

I recommend that the bill be enacted if the technical changes noted below are adopted.

I fully agree with the objectives of the proposed legislation, which is designed to authorize compensation to grazing permittees and licensees on the Federal range, wherever their authorization to use the range lands is terminated because of the need of those lands for national-defense purposes. By providing compensatory payment for losses sustained as a result of such cancellation of grazing privileges, the legislation would enable users of the public range to continue livestock operations in instances where they might otherwise be driven out of business. In view of the severe meat-supply shortages, the desirability and need for taking effective measures to promote the livestock industry are, of course, as acute today as they were during the height of the war.

The bill would, in effect, extend existing legislation which authorizes payment only if the land is used by the United States for war purposes (act of July 9, 1942, 56 Stat. 654, 43 U.S.C., sec. 315q). The authority under the 1942 act was terminated on July 25, 1947, by section 3 of Senate Joint Resolution 123, approved on that date (Public Law 239, 80th Cong., 61 Stat. 449, 454). The 1942 act itself, however, was not repealed, but is still in the body of permanent law, the authority thereunder becoming available again in the event of any future conflict. (See S.Rept.No.339, 80th Cong., at p. 1 of pt. II.)

Since the 1942 act is still on the statute books, it is suggested that the bill, S. 1874, be consolidated with the existing legislation. It is also recommended that the expiration date in section 2 of the bill be eliminated, since it is not unlikely that the need for the lands involved for national defense purposes may continue beyond June 30, 1952. The following substitute wording for S. 1874, which I suggest be inserted after the enacting clause, would effectuate my recommendations:

"That the Act of July 9, 1942 (56 Stat. 654, 43 U.S.C., sec. 315q) is amended by inserting the words 'or national defense' between the word 'war' and the word 'purposes' wherever the latter two words appear in that Act.

"Sec. 2. This amendment is to take effect as of July 25, 1947."

This Department has not received clearance from the Bureau of the Budget on the submission of this report. Therefore, I cannot advise you concerning the relationship of the views expressed herein to the program of the President.

Sincerely yours,

J. A. Krug,
Secretary of the Interior.

ALASKA—PUBLIC AIRPORTS

For text of Act see p. 292

Senate Report No. 1219, Apr. 30, 1948 [To accompany H.R. 3510]

House Report No. 988, June 17, 1947 [To accompany H.R. 3510]

The Senate Report repeats in substance the House Report

Senate Report No. 1219

THE Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 3510) to authorize the construction, protection, operation, and maintenance of public airports in the Territory of Alaska, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

PROVISIONS OF THE BILL

Section 1 authorizes and directs the Administrator of Civil Aeronautics to construct, protect, operate, and maintain within the Territory of Alaska at or near Anchorage and Fairbanks a public airport (including all buildings and other structures necessary or desirable therefor) adequate for the needs of the air transportation services and air commerce of the United States serving the Territory of Alaska and foreign countries by way of points within the Territory of Alaska.

Section 2 authorizes the Administrator to acquire property by purchase or otherwise and authorizes the transfer of properties from Federal agencies or the Territory of Alaska as may be needed in connection with the construction, protection, maintenance, and operation of said airports.

Section 3 authorizes the Administrator to acquire such rights-of-way, easements for roads, trails, pipe lines, power lines, railroad spurs, bridges, and other similar facilities necessary or desirable for the proper operation of the airports. Upon completion of such public highways or bridges the Administrator shall transfer same to the Territory of Alaska without charge.

CONSTRUCTION OF PUBLIC AIRPORTS IN ALASKA

Section 4 gives the Administrator authority to promulgate rules and regulations for the proper maintenance and operation of the airports and exercised in each case only after a determination by the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, or such official within their respective departments as they may designate, as the case may be, that existing private and other facilities are not and cannot be rendered adequate by other means, that reasonable effort has been made to induce operators of private facilities to provide the necessary service, and that its exercise will result in the most efficient method of supplying transportation to the personnel concerned and a proper utilization of transportation facilities.

Reports to Congress.

SEC. 2. It shall be the duty of the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, respectively, to file with the Congress, within sixty days after the end of the fiscal year a summarized report of the exercise of the authority herein granted, which report shall include (1) location, nature, and size of the activity for which transportation facilities were provided; (2) type, amount, and original cost of equipment furnished; (3) outline of lease or charter for rented or reciprocally used equipment with total costs for period of use or operation; (4) citation of authority of the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force under which exercised; and (5) for each activity for which transportation facilities were provided, the maximum number of motor vehicles or water carriers used, the total miles operated, the total revenue from fares or proceeds from the leasing or chartering of equipment, the operating and maintenance expense, depreciation, gross cost, and net cost.

Repeal.

50 U. S. C. app. §§ 841, 842.

SEC. 3. The Act entitled "An Act to provide for furnishing transportation for certain Government and other personnel necessary for the effective prosecution of the war, and for other purposes", approved December 1, 1942 (56 Stat. 1024), as amended by subsections (a) and (b) of section 1 of the Act of April 9, 1946 (60 Stat. 86), is hereby repealed.

Approved May 28, 1948.

[CHAPTER 353]

AN ACT

May 28, 1948
[S. 1874]
[Public Law 561]

Authorizing the head of the department or agency using the public domain for national defense purposes to compensate holders of grazing permits and licenses for losses sustained by reason of such use of public lands for national defense purposes.

Use of public domain for national defense purposes.
43 U. S. C., Supp. I, § 315q note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of July 9, 1942 (56 Stat. 654, 43 U. S. C., sec. 315q), is amended by inserting the words "or national defense" between the word "war" and the word "purposes" wherever the latter two words appear in that Act.

SEC. 2. This amendment is to take effect as of July 25, 1947.

Approved May 28, 1948.

[CHAPTER 354]

AN ACT

May 28, 1948
[H. R. 3510]
[Public Law 562]

To authorize the construction, protection, operation, and maintenance of public airports in the Territory of Alaska.

Alaska.
Public airports.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Civil Aeronautics (hereinafter referred to as the "Administrator") is hereby authorized and directed to construct, protect,

EXHIBIT C

IN THE UNITED STATES DISTRICT COU
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA
Plaintiff,
vs.
314,365.46 acres of land in
the County of Otero, N.M.;
Roy E. Holcomb, et al.,
Defendants

CIVIL ACTION NO. 3209

FILED
FEB 11 1958
AT ALBUQUERQUE
WM. D. [illegible],
CLERK

JUDGMENT

This matter having come before the Court at this time upon Stipulation filed herein by plaintiff and defendants, Don T. Lee and Charlotte T. Lee, as to Tracts 53 and 64, designated and particularly described in plaintiff's Complaint, as amended, and in the Order Confirming Title heretofore entered, together with certain grazing leases on Federal Domain lands, and the Court being sufficiently advised in the premises, finds that said Stipulation should be approved; that the defendant former owners of said lands should be awarded the total sum of $682,000.00, without interest, as the just compensation for the taking of the estate described in plaintiff's Complaint, as amended, in the patented lands designated Tracts 53 and 64, and in the grazing lease interests in land of the State of New Mexico and Federal Domain land described in said Stipulation, and for waiver of all claims of removal costs under section 401b, Public Law 534, 82nd Congress, and the Taylor Grazing Act (43 U.S.C. 315q); that from said award should be deducted the sum of $516.32 - being the net fees and expense of the United States Marshal in executing the Writ of Assistance as to said lands in this proceeding, which amount so deducted should be paid to the U. S. Marshal; that heretofore plaintiff has deposited in the registry of this Court the sum of $278,407.00, which defendants have withdrawn, to which amount plaintiff shall be required to add a deficiency deposit of $403,593.00; that the Court has jurisdiction of the parties and of the land, and that said land is taken by plaintiff for a public purpose; and it is therefore

ORDERED, ADJUDGED AND DECREED that plaintiff be and it hereby is vested with the full fee simple title in the patented lands described as Tracts 53 and 64 in this proceeding as said estate taken is more fully described in plaintiff's complaint, as amended, and as more particularly described in that certain Order Confirming Title in the United States entered March 14, 1957, and recorded on March 19, 1957 at Book 212, Pages 141-148, in the records of the County Clerk of Otero County, New Mexico, together with all right, title and interest of said defendants in and to the oil, gas and other minerals underlying the lands described as Tract No. 53, as to which the Court entered its Order Confirming Title on December 12, 1957, recorded December 26, 1957 at Book 222, Pages 426-427, in the records of the County Clerk of Otero County, New Mexico, and together with the interests of said defendants in the Federal grazing leases upon Federal domain lands described as follows:

WITHIN TRACT NO. 53

Federal land lying within the exterior boundaries of the Grazing Allotment No. 1 (North) of Don T. Lee as shown on allotment map of the Range Manager, Grazing District 3 and 4, Bureau of Land Management, Department of the Interior, Las Cruces, N.M.

Township 20 South, Range 11 East, N.M.P.M.:
    Sections 13, 14, 15, 21 to 28 incl., 33, 34 & 35: All

Township 20 South, Range 13 East, N.M.P.M.:
    Section 19: Lots 1, 2, 3 and 4, E½W½
    Section 27: N½SW¼, S½NW¼
    Section 28: E½SE¼
    Section 29: S½
    Section 30: E½SW¼, SE¼NW¼, E½
    Section 31: NE¼SW¼, E½NW¼, NE¼, N½SE¼
Township 21 South, Range 11 East, N.M.P.M.:
    Sections 1 and 3: Lots 1 to 12, incl., S½
    Sections 10, 11 & 12: Part

Township 21 South, Range 12 East, N.M.P.M.:
Section 1: Lots 1 to 12, incl., S½
Section 3: Lots 1, 2, 3 and 4
Section 4: Lots 1 to 6, incl., Lots 11 and 12, SW¼
Section 5: Lots 1 to 12 incl., S½
Section 6: Lots 1 to 11, incl., SE¼
Section 7: Part
Section 8: All
Section 11: All
Section 12: All
Section 13: All
Section 14: All
Section 15: All
Section 17: Part
Section 18: Part
Section 21: Part
Section 22: Part
Section 23: All
Section 24: All
Section 25: All
Section 26: All

Township 21 South, Range 13 East, N.M.P.M.:
Section 4: Part
Section 5: Part
Section 6: Part
Section 7: Lots 1, 2, 3 and 4, E½W½, E½
Section 8: All
Section 9: Part
Section 17: All
Section 18: Lots 1, 2, 3 and 4, E½W½, E½
Section 19: Lots 1, 2, 3 and 4, E½W½, E½
Section 21: Part
Section 28: Part
Section 29: All
Section 30: Part

Township 22 South, Range 12 East, N.M.P.M.:
Section 34: Part)This is Part
Section 35: Part)of Tract 64

Containing 29,800.33 acres, more or less.

Federal land outside Grazing District 3 and 4, administered by Range Manager of District 3 and 4 and leased by United States under Section 15, Taylor Grazing Act

Township 20 South, Range 12 East, N.M.P.M.:
Section 24: N½SE¼ (Moss Leases but Lee uses)
Section 26: N½SW¼, S½NW¼, SE¼NE¼, NW¼SE¼
Section 27: N½SW¼, S½NW¼, SW¼NE¼, NW¼SE¼
Section 28: N½SW¼, NW¼, NW¼NE¼, S½NE¼, N½SE¼
Section 30: All

Containing 1640 acres, more or less.

all as shown by two unnumbered Department of Interior grazing leases dated respectively October 18, 1954 and March 2, 1954.

WITHIN TRACT NO. 64

Federal land lying within the exterior boundaries of the Grazing Allotment No. 2 (South) of Don T. Lee as shown on allotment map of the Range Manager, Grazing Districts 3 and 4, Bureau of Land Management, Department of the Interior, Las Cruces, New Mexico.

Township 23 South, Range 12 East, N.M.P.M.:
Section 1: Part
Section 3: Part
Section 10: Part
Section 11: All
Section 12: Part
Section 14: Part
Section 15: Part

Township 23 South, Range 13 East, N.M.P.M.:
Section 6: W½W½

Containing 3,060.23 acres, more or less.

all as shown on an unnumbered 10-year grazing permit issued September 15, 1953 for the term July 1, 1953 through June 30, 1963, as the same is issued and set out on grazing allotment maps in the office of the Range Manager of the Bureau of Land Management of the Department of the Interior in Las Cruces, New Mexico.

and it is further

ORDERED, ADJUDGED AND DECREED that the Stipulation of the aforesaid defendants with plaintiff is hereby approved, and said defendants in accord therewith are barred from any claims for removal or resettlement costs under section 401b, Public Law 534, 82nd Congress, and barred from any claims under the Taylor Grazing Act (43 U.S.C. 315q), and said defendants are hereby awarded the sum of $682,000.00, without interest, as the full and just compensation for all interests taken by plaintiff in said lands; and it is further

ORDERED that plaintiff shall forthwith accomplish a deficiency deposit in the registry of this Court in the sum of $403,593.00, without interest, which, together with the sum of $278,407.00 heretofore deposited shall constitute the total sum of $682,000.00 awarded above; and if plaintiff shall unreasonably delay such deficiency deposit, defendants may apply to this Court for appropriate relief; and it is further

ORDERED that when plaintiff shall have accomplished such deposit, the Clerk of this Court shall issue his registry checks out of said fund as follows:

Payee	
George W. Beach, U. S. Marshal, District of N.M. deliver to Marshal's office, Albuquerque, N.M.	$516.32
Don T. Lee and Charlotte T. Lee, and mail to George A. Shipley, attorney for said defendants, Alamogordo, N.M.	$403,076.68
Total disbursements	$403,593.00

DATED this 11th day of February, 1958.

UNITED STATES DISTRICT JUDGE

Approved
Geo A Shipley
atty for defts
Don T Lee + Charlotte T Lee

CERTIFIED a True Copy of the
original filed in my office.
Jesse Casaus, Clerk
By Phyllis M. Reel
Deputy

APPRAISAL ASSOCIATES
1016 Baltimore
Kansas City 5
Missouri

SERVING IN VALUATIONS EVERYWHERE

TELEPHONE VICTOR 2-6947
TELEPHONE VICTOR 2-9680

EXHIBIT D

April 29, 1957

Mr. Don T. Lee
P. O. Box 1140
Alamogordo, New Mexico

Dear Mr. Lee:

In accordance with the instructions contained in your letter of November 20, 1956, we enclose herewith our appraisal of your ranch in Otero County, New Mexico. The basic data was gathered by our associates in October, November and December, 1956 and in January and February, 1957. The appraisers personally inspected the subject property on September 29 and 30, 1956 and on January 22, 23, 24 and 25, 1957. Many days have been devoted by the appraisers to the analysis of the data and the preparation of this report.

After giving careful consideration to the values indicated by each of the approaches both immediately before and immediately after the taking of a portion of the property by the United States on July 1, 1956, it is the considered judgment of the appraisers that:

The Market Value of the Don T. Lee Ranch Before The Taking was	$850,000.00
The Market Value of the Don T. Lee Ranch After The Taking was	$100,000.00
The Total Amount of the Damages Due to the Taking was	$750,000.00

The appraisers take no responsibility for matters which are legal in nature. No responsibility is taken for surveys, engineering conclusions or estimates furnished the appraiser.

M.A.I.—MEMBER AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS • S.R.A.—SENIOR MEMBER SOCIETY OF RESIDENTIAL APPRAISERS

The subject property has been appraised as though it was free and clear of all indebtedness and title was vested in the owner as stated. The appraisers have given no consideration to any mineral values which might exist. The appraisers have no interest in this or any other property which would influence the values found or the conclusions reached. The values indicated in this report bear no relation to the fee charged for this appraisal. This appraisal has been made for the exclusive use of Mr. Don T. Lee and his attorneys in connection with the possible acquisition of a part of the property by the United States and its use by other persons and for other purposes is strictly prohibited. The use of part of this report without the consideration of the whole is strictly prohibited and this appraisal, when used in this manner, is null and void and of no effect.

We, the undersigned, do hereby certify that to the best of our knowledge and belief the statements and opinions contained in this appraisal are correct, subject to the limiting conditions herein set forth; also, that this appraisal has been made in conformity with the Rules of Professional Ethics of the American Institute of Real Estate Appraisers of the National Association of Real Estate Boards.

Respectfully submitted,

Earl K. Lostetter, M.A.I.

W D Davis

W. D. Davis,
M.A.I.,A.R.A.,
S.R.A.,A.S.A.

Improvements	Six sets of improvements including headquarters.
Pastures	Fourteen
Highest and Best Use	Cattle Ranch
Market Value Before the Taking:	
Value Indicated by the Cost Approach	$862,250.00
Value Indicated by the Earnings Approach	$846,000.00
Value Indicated by the Market Data Approach	$850,000.00
Conclusion	$590.00 per CYL, or $850,000.00
Market Value After the Taking:	
Value Indicated by the Cost Approach	$107,700.00
Value Indicated by the Earnings Approach	$ 65,800.00
Value Indicated by the Market Data Approach	$100,000.00
Conclusion	$367.65 per CYL, or $100,000.00
The Total Amount of the Damages:	
Market Value Before the Taking	$850,000.00
Market Value After the Taking	$100,000.00
The Total Amount of the Damages	$750,000.00

Damages Due to Severance

New Fencing Required		
North Allotment	$ 5,100.00	
South Allotment	3,400.00	
Total		$ 8,500.00
Loss in Carrying Capacity of Remainder:		
North Allotment		
Windmill Pasture	30 CYL	
Sombrero Pasture	23 CYL	
Total	53 CYL	
South Allotment		
Horse Pasture	7 CYL	
Shockley Pasture	60 CYL	
Little Antelope Pasture	3 CYL	
Total	70 CYL	
Total - 123 CYL @ $632.52 per CYL		77,800.00
Total Damages due to Severance		$ 86,300.00
THE TOTAL AMOUNT OF THE DAMAGES		$750,000.00

Senator DOMENICI. Thank you very much, Charlie. Unless the Senators have a pressing question, let us proceed with the panel and you can interrupt as they talk if something comes to mind.

Dolly Helms, we are delighted to have you and we will accept your testimony and look forward to hearing from you.

STATEMENT OF DOLLY HELMS, OSCURA, N. MEX.

Mrs. HELMS. Thank you. I am presenting my testimony on behalf of my husband and myself as well as my children.

My name is A. D. Helms. I presently reside in Oscura, N. Mex. My wife is appearing on my behalf and her own behalf as the owners and former operators of a cattle ranch which is presently a part of the White Sands Missile Range. I am 73 years old. In 1932, I homesteaded one section of land in the Oscura Mountains.

Subsequently, my father, A. B. Helms, homsteaded another 480 acres and we merged the two ranches into one. Under the Taylor Grazing Act, we were allotted another 11 sections of GLM leased land. We were permitted to run 87 head of livestock on the ranch.

In 1941, one of my neighbors told us the Government was looking for an area for a practice bombing range and that the most likely place would probably include my ranch.

We had several Government men contact us and as our intentions were to stay on the ranch, we more or less ignored their offers and assurances we would be better off somewhere else. But none of them really said what we would get. But one said that you may as well move, for the Government will get it anyway.

I think the only mention was maybe 5 percent of the face value of our ranch. Then we were told we would have to move and only had 2 weeks to get all our stock together and vacate or we would be charged with trespassing, and we had not seen any money for moving expenses and nowhere to go with the stock.

My parents were old and my wife was pregnant with our third child and I had to try to do all of this in 2 weeks. This was in February 1942. The cows were having calves and the roads into the ranch was not in any shape to haul livestock over them. And as there were other ranchers looking for range land to hold their livestock on until they could negotiate with the Government and relocate, grass was hard to find.

I had a friend and neighbor, Sam Gililland, living on the east outer edge of the Malpais, badlands, and he said he would lease me pasture to hold my cows until I could try to relocate. I accepted, but this meant trail driving my stock approximately 40 miles.

We loaded the smaller calves on the pickup with the bed rolls, camping gear, et cetera, and started out for the Gililland Malpais Ranch. My wife, Dolly, knew very little about driving a vehicle, so I told her what route to take and to go ahead of the cows. She along with our two young sons, Roy and David, along with our little dog and the baby calves, started out. We camped about half way the first day. By then Dolly had learned a little about driving, so the rest of the way was made without much event.

We got into Sam's the next day and put up beds, a stove and set up camp in his little one-room lumber house. If no one has ever tried living in a one-room house with two small children and an expectant wife, hauling their water and cooking on a small stove, they should try it for real. Because that is what being misplaced and driven from your home is like.

Unlike our Oscura Mountain Range land, our cows had a hard time finding enough forage and feed was not early coming out. When we left the ranch in the Oscura Mountains, the February grass was good on the mountain and the cows had been grazing on it and the Mahogany brush. So it was quite an adjustment for the cattle to make, too.

Some even got sick and we had to force feed them and drench them with water. Also, the water had more alkali than the cows were used to and some became completely dehydrated and required special care. We had an extremely difficult and trying time of it.

I began looking for permanent pasture to rent and even made a trip to Idaho for this purpose, but could find nothing. We stayed there until some time in the first part of May 1942. Then I moved my family on out to Oscura for our baby was due in June and Dolly needed to be closer to the doctor.

In June 1942, I could see my cattle were not going to hold their weight and I had still not found a ranch and had no money, as the Government had not paid me a cent. So I decided to do the only thing I could and sell my cattle, since I had no ranch to keep them on. Out of 64 head, I got $2,676.42, less than $50 a head.

Meanwhile, we were negotiating the lease payments to be made by the Government. On February 25, 1942, they quoted a lease fee of $1,250 per year for 1932. It was written up in the contract and we received no money until 1943. No moving expenses, no money at all. For my part, I had $625 as I was letting my dad have half of the lease money. Since our ranch was merged into one, he was getting half the lease money from 1942 to 1954 when he passed away.

The first lease expired on July 1, 1945, and I was forced to sign another one for 20 years, in spite of the fact that I had been told over and over again that I would get my ranch back at the end of the war. I felt that I had no choice but to sign since I had no money to take them to court.

The new lease payments were $415 quarterly, $1,660 per year for the 20 years. Since these lease payments were so long in coming and were so small, I had to start looking for work to support my family. I first worked on air bases in Arizona. The housing facilities were bad and after my daughter was born, all three children became ill and our new baby daughter passed away on September 9, 1942. She was a little over 2 months old. I am sure she would have lived if it had not been for our being forced off our ranch on such short notice with very little money and no other way to make a living.

The impact of her death and having to give up our ranch was almost too much for us to bear, but with two boys we had to keep going for their sake.

I really believe unless someone has gone through an ordeal like this, it is hard to believe the effect it has on your entire life.

I then moved back to New Mexico and bought a small farm near Hatch, using borrowed money. I stayed there until 1944, when I bought 40 head of long yearling heifers and moved back to Oscura, N. Mex. to wait out the Government.

In 1947 the Government told me they were going to pay me cash in lieu of restoring the improvements on the ranch. These improvements were badly damaged, but all they would pay me was less than $10,000.

Senator DOMENICI. Excuse me. Is that $10,000 or $1,000?

Mrs. HELMS. That would be $10,000 they offered, less than $10,000.

Senator DOMENICI. The written statement has $1,000.

Mrs. HELMS. It was less than $10,000—$9,249 to be exact.

I continued to work as a carpenter and plasterer to support my family and finally managed in 1954 to buy the Wiley Brroks Ranch on credit. This ranch was in the safety zone on the eastside of the missile range and not far from my original ranch. It had a carrying capacity of 226-head of livestock.

Although the ranch was inside the range, the lease to the Government allowed couse. So we could run cattle on it, but could not live there. I had to continue to work at outside jobs to pay off the ranch, as the principal and interest due were more than the Government was paying for my original ranch. The Brooks Ranch had a beautiful red tile brick dwelling house on it and while we could not live in it under the terms of the lease with the Government, we planned to move into it when the Government leases expired and we could run both ranches from there.

By working hard at outside jobs, I finally paid the Brooks place off in 1964. In the mid-1960's, however, even this dream was shattered when that house was utterly destroyed by a bomb. We knew the Government was required to restore the improvements under the terms of the lease, but I had enough experience in dealing with them by now to know this was an empty promise.

In the mid-1970's, the question of restoring the improvements came up. The Government offered less than $10,000 for restoring the improvements on both the Brooks and our original ranch. It would have crowded me to put the fences back up that they had torn down and repair the windmill at that price.

I had a building contractor come in and give me an estimate on just rebuilding the Brooks Ranch house alone and the figure was $35,000, so I rejected the offer. After a lot of negotiation, they finally offered me $25,465 in lieu of restoring all improvements on both my original ranch and the Brooks ranch. It was a pitiful amount considering all the damage they had done, but I had no other choice and under duress, I was forced to accept the offer.

The Government finally offered in 1975 to buy the ranches, but refused to pay either anything for either the public domain BLM leased land or the State leased land. Again, as always, there were threats of condemnation if I did not accept the offer of $60,000 for the 1,440 acres of deeded land. Of course, the deeded land without the leased grazing land permits to support it was worth only a small fraction of its true value. But I felt I had no choice except to sell. I certainly did not have any money to fight a condemnation suit, although I felt I stood a good chance of winning it.

The Government continued to rent the State leased land from us from $535 per year to $800 per year until 1982 when the State terminated the leases to us because the Government had taken the deeded land and the ranch unit no longer existed. I am convinced the Government went to the State and got these leases canceled after they took my deeded land, just so they could use the State lands for nothing.

Looking back over the 41 years of controversy, I am very bitter. The Government took away my ranch, which was my only livelihood, on 2 weeks notice. My cattle had to be sold for a fraction of their value. I had to work at any job I could find to support my family and get back in the cattle business. Indirectly, but surely, they killed our baby daughter.

They never paid me enough either to live on or to get a replacement ranch and finally they rigged it so that my BLM lease lands were treated as worthless. The State canceled my State leases and I got a fraction of what the ranch was worth, disguised as a payment for my deeded land.

I have been unable to send any of my sons to college or give my family any of the advantages of normal living. I have worked for wages rather than made an independent living and will be unable to leave my children any of their rightful inheritance. I am 73 years old and my wife will be 63 years old this October. We are old and very tired, waiting in vain for our dream of returning to our ranch to be fulfilled.

There can never be justice done in a case like this, because you can never undo what is in the past. But I do request that you support Congressman Skeen's bill because it provides about as reasonable a solution as you can expect and it does to some extent fulfill some of the Government's obligations, which up to now it has denied it has.

Thank you very much.

[Attachment to the statement of Mrs. Helms follows:]

To whom this may consern,

In regard to the White Sands Ranchers Recovery Group.

At the age 72 years and this year being 1983 I, A. D. Helms homesteaded property in what now is in the White Sands Missile Range. At the time I homesteaded I was 22 years old, the year was 1932. My father, A. B. Helms, a friend, Jim Gatewood, and myself rode horseback from Nogal, N. M. into the Oscura Mts. Took up several days as I wanted to find a place I could spend a life time on, make a living, settle down and gain something in life.

When we rode out on a huge rimrock near North Oscura Peak, I looked out over the rim looking south and told my riding companions "That is the place I want; that is where I'll spend my lifetime." Of course, the Great Depression was on and times were very hard. But I was young and very determined so I began putting my s houlder in the load of putting up a little house, building a fence, fixing a way to get livestock water and still working some for wages which was usually $1.00 a day and board.

My mother, Sarah Helms moved to the Homestead with me and we had 55 head of good livestock.

The range had Black Head Grammer Grass, Mahogany and Liveoak brush on the mountain. The mountains and foot hills were dotted with cedars. Post were plentiful. On top of the mountain there were a few pinon trees and some Juniper.

At times, I cut posts and sold them, also worked for The Hatchet Cattle Co. and kept my cattle growing. I had homesteaded 640 acres located in Socorro County and before homestead rights were closed down my father proved up on 480 acres also located in Socorro County.

We were alloted approx. 11 Sections of grazing land. I made final prove off of my 640 acres in 1938.

In the meantime, I married in 1936. Our first son, Roy was born in 1937. He now resides in Alaska. Roy was a great joy in our life. He love the ranch and what it represented in his life. We had cows, goats, and horses and as there was no hustle and bustle so to speak, at that time we all worked together enjoying the fresh clean unpolluted air and sunshine, which is more than I can say for today's clean fresh air.

By this time we were working for Mr. Buck Dillard on adjoining ranches keeping our ranch going along with his. He was running goats, cows and horses. We were able to buy a cow and calf about every 3 or 4 months. This was gradually building our herd up with the increase of our 55 head to begin with.

In 1940, our second son, David, was born and the threat of war was heavy but out on the ranch we didn"t feel the pressure or at least we felt like maybe if we just ignored it, maybe it would be like a bad dream and just go away.

We had certain times of the year, stock water was hard to come by as our dirt tanks would get very low on water and sometimes even go dry but

Mr. Dillard was furnishing us water during that time and we always made it through until the rainy season hit. Then the grass would head out and look like a hay meadow. You could ride for miles and miles with Grammer Grass headed out 12 or 14 inches high. In the fall, the wet cows would have a big 400 lb. or 500lb. calf by her side and she was in good shape for winter.

Mr. Dillard brought out our supplies for us most of the time and of course the good news and bad news, and on one such trip he said he had been informed that the government was looking for an area for a practice bombing range and that from Highway 70 West out of Tularosa to highway 380 on the North was the most likely place which took in some of the best cow country between the Pecos River and the Rio Grande River.

This was the first Land Grab.

We had several government men contact us, and as our intentions were as I stated before, to stay on the ranch, we, more or less, ignored their offers and assurances we would be better off somewhere else. But none of them really said what we would get but one said, "You may as well move for the government will get it anyway." I think the only mention was maybe 5% of the face value of your ranch. We had an 87 C. Y. L. capacity with 83% Federal Range in 1939.

In 1941 there was an exceptionally good year. Rainfall was plentiful, all the stock tanks were full of water. We had a good calf crop and the goats were heavy with Mohair and the kid crop was very good. You could just take a beef right off the range and it was fat enough to butcher. Mahogany brush will fatten a beef in winter just like grain.

This one good year put us in a position to really improve and get ahead.

Then we were told we would have to move and only had two weeks to get all our stock together and vacate or we would be charged with trespass and we had not seen any money for moving expenses and no where to go with the stock.

My parents were old and my wife was pregnant with our third child and I had to try to do all this in two weeks. This was in February 1942. The cows were having calves and the roads into the ranch was not in any shape to haul livestock over them. So it meant to trail drive them out a distance of approx. 35 or 40 miles. And, as there was other ranchers looking for range land to hold their livestock on until they could negotiate with the government and relocate, grass was hard to find.

We moved my parents out into a little two room house at Oscura and proceeded to get the livestock moved.

I had a friend and neighbor, Sam Gililland living on the East outer edge of the Malpais and he said he would lease me pasture to hold my cows until I could try to relocate. I had been thinking about going to Idaho. So, we loaded our pickup with a camping outfit with side borads. My sisters from Texas had come up and helped me round up the cows and had to go back so my Dad and I started out. This was February 22, 1942. Just a week previously, we had a snow storm and the weather was miserably cold so that slowed us down.

We loaded the smaller calves on the pickup with the bed rolls, camping gear, and etc. and started out for the Gililland Malpaias Ranch. My wife, Dolly, knew very little about driving so I told her what route to take and go ahead of the cows. She, Roy and David with our little dog and the baby calves started out. We camped about half way the first day. By then Dolly had learned a little about driving so the rest of the way was made without much event.

We got in to Sam's the next day and put up beds, a stove and set up camp in his little one room lumber house. If no one has ever tried living in a one room house with two children and an expectant wife, hauling their water and cooking on a small stove, they should try it for real. Because that is what being displaced and driven from your home is like.

We had turned the cows loose paired them up with their baby calves, fed and watered the horses then hobbled them and turned them loose to graze.

Unlike our Oscura Mt. range land, our cows had a had a hard time finding enough forage and the feed was not early in coming out. When we left the ranch in the Oscura Mts., the February grass was good on the mountain and the cows had been grazing on it and on the Mahogany grass. So it was quite an adjustment for them to make too. Some even got sick and we had to force feed them and drench them with water. Some even were alkalied. We stayed there until sometime in the first part of May 1942. Then I moved my family on out to Oscura for our baby was due in June and Dolly needed to be closer to the doctor. I left my cows on Sam's ranch and decided to go to Idaho and check out some new land they had cleared the timber from, which was located in the Northern part of Idaho.

That trip was a wasted effort because it rained on us from the time we hit Utah on to Idaho. We couldn't even get off the main roads so we came back.

My parents sold their cattle at a very low price and took somewhere less than 10¢ a pound. Went to Arizona and bought a place near Springerville. The winters were severe there and they really had a hard time getting through. My sister from Phoenix bought a place near them and ran cattle with theirs on the forest. By then, he had bought a few more.

In June 1942, I could see my cattle was not going to hold their weight and I had still not found a ranch an' had no money as the government had not paid me a cent.

They had quoted a price of $1250.00 from 1942 on Feb. 25th. This was written up in the contract and we received no money until in 1943. No moving expense; no money at all. To my part, I had $625.00. As I was letting my Dad have half of the lease money since our ranch was merged into one so he was getting half the lease money from 1942 to 1954 when he passed away.

I decided to sell my cattle and do the only thing I could since I had no ranch to keep them on. Out of 64 head I got $2676.42; less than $50.00 a head. So I sold them and waited until our baby girl was born on June 26, 1942 and moved to Arizona. I started to work on the Air Bases our of Tucson, Ariz. I worked there from July 1942 until February 1943.

When we left here going to Arizona, we took our household furnishings to my Dad's place near Springerville and we took only our clothing and beds with our two sons and infant daughter. Housing facilities were very bad in the area and we could only find a small room close enough for me to get to my job as gasoline and tires were soon rationed after we got there.

The heat was almost unbearable and both the boys got sick. A short time later our baby became ill and she passed away Sept. 9, 1942.

The impact of her death and having to give up our ranch was almost too much for us to bear. But with two boys we had to keep going for their sake.

I really believe unless someone has gone through an ordeal like this, it's hard to believe the effect it has on your entire life.

I was working and trying to hang onto the little amount of money we got out of our cows. As we had not recieved any compensation from the govt. I worked on the defense Air Bases until the construction Co. planned on moving to calif. to the ship yards. When they told us the housing facilities were bad in Calif. we decided against going on to Calif.

We moved back to New Mexico in April 1943. Had some friends on the Rio Grande River north of Hatch New Mexico and stopped to visit them. Jess Huffman and his family were good people and he told me there was a 20 Acre farm for sale near Garfield New Mexico. I decided to check it out, at least it was back in New Mexico and I had a better chance getting by.

The land on the farm was in the old river channel. Good rich soil so I bought it. Borrowed money from Coke Johnson at First National Bank Hatch New Mexico for $2,500.00.

I still kept my money from the cows as I was determined to get me some more cows if the Govt. ever paid me. We had alfalfa, hay, cotton, and tomatoes, made a good crop in all, paid the farm out and lived.

The house was the only thing that made the farm hard to cope with. It was and old hackel, constructed of logs and mud. You didn't dare go to bed at night until you shook out the scorpions and centipedes from your covers, during this time our little boys were pre-school age so all of this really didnt have much of an impact on them as yet.

Sometime in the summer or the year of 1943, we recieved our first money from the Govt. but I had to go to Santa Fe to prove I had the money coming to me. My Dad and I each got $625.00 the lease agreement included my ranch and my Dads ranch the sum being $1,250.00 for both units together. This lease expired July 1, 1945 then the one being $430.22 per annum and expire June 30, 1967, wound up getting $415.00 from 1950 to 1970. In 21 years we were paid approx. $35.000.00. Would have took a very poor cow herd to come up with such a small amount of cash in 21 years. From 1942 to 1954 We shared half the the $35,000.00 with my dad and mother.

In 1944 we moved back from the Rio Grande to Oscura New Mexico. I bought 40 head of Long Yearling Heifers from John Yearwood who had a ranch at Winston, New Mexico in the Black Range. They were out of a strain of registered stock and all in good uniform size. I used $2,600.00 I had previously saved from the sale of my cows when we moved to Arizona. It took us 8 days to trail drive them home from T or C to Oscura. We had no money to truck them in.

By this time Roy was old enough to go to school so we decided to settle here and when we got the ranch back we would be close enough we could move back home and still be able to move out close to school to educate our boys.

So we brought our 40 Yearlings and come back to wait out the Govt. all the time we were getting promises of more money or mostly less and threats of condemnation and going to court if we didnt take what they offered. Each time the contracts were renewed we got less and then the contracts had to be in effect a year before they would pay. All the time we were under threat of going to court finally coming to their terms.

In 1948 our son Larry was born and just a year previously they paid us a little money for restoration less than a thousand dollars but in 1949 they didnt pay any of the ranchers lease money and the committe got together and some leases were increased but nothing compared to what we could make on just one calf crop of 25 head CYL. The committe group tried getting co use but to no avail. most of the ranchers were in a position to be on and off on firing days in this area but seemed like we were the ones elected to get ripped off.

In 1954 I bought the Wiley Brooks Ranch which was in the safety zone on the East side of the bombing range along the Malpais near the Oscura Range Camp that was good over flow land and had 856.70 acres of state lease land. By this time our 2 oldest boys were big enough to really work and those two little boys really put out some long days. Roy and I were doing a lot of carpenter work and on weekends. David would help us. Feeding a cement mixer is hard work. I was usually plastering houses after we built them and the boys were mixing the plaster. We worked this way right on up to the boys married in 1957 and 1963. I paid the Brooks Place off in 1964. When we bought this ranch it increased our carrying to capacity from 87 C.Y.L. to 313 C.Y.L. It cost us in principle and interstmore than the Govt. was paying us. If I had not worked all that time I could not have paid it out. My dad died in 1954 and I'm sure in his mind he never gave up the hope that he would someday move back home. He was 79 and very active. My mother died in 1946 with another unfilled dream of going back to the ranch, going with her to her grave.

The Brooks Place had a dwelling of 1390 square feet, constructed of red tile brick, 3 bedrooms, bath, living room, dining room and a large kitchen, with porch leading out. A 12 X 20 garage on the North end

This was our house we had planned on living in when we got the ranches back. As we could live there and get in and out to school. The floor was hard wood Oak through outthe house with a large basement beneath the Kitchen. We couldnt live in this house but the house we were living in was only a 3 room house and with 3 children it wasn't easy but we kept on going because we thought we would get the ranches back any time after 1967. But sometime in the mid 1960's that dream of moving in to this spacious house was shattered, because there was evidence

that a heavy charge of explosives was set off under the North end of the house destroying what was left of the house. The foundation was cracked the basement ruined, roof blown off.very little left to salvage as the doors, windows, and anything loose that could be carried off was already gone. With this ranch and the two in the Oscura Mts.
WE HAD A 313 HEAD C.Y.L.

In 1967 the Vietnam War was upon us or our Leaders seemed to think so. Our youngest son Larry graduated in 1966 and inlisted in the Navy as a Seabee, took his trainging and was shipped out to Saigon March 1968 in the meantime Roy our oldest son had signed up with a civilian Construction Co. as lineman for 18 months. Our son David was in Business and he was a great comfort to my self and my wife as we were very bitter of the fact that we had given our ranches up, why should our sons have to put their lives on jeapordy.

God spared our sons lives and sent them back home to us. This we give thanks to God for there was 57,000 that were not granted that blessing. I cannot say Roy and Larry came home as they were before, because war leaves scars on your mind and soal that takes years to heal, and some of them never heal.

In the early 1970's we were offered less than $10,000.00 for the improvement on our ranchers it would have crowded us to put the fences and put the well and winimill back in operation at that price. We had a building, constractor give us an estimation of the cost to rebuild the house and at that time he said no less than $35.000.00 just for the house. So we rejected the offer. This was after 30 years of deteriation Finally under duress we agreed to take their next offer which was $29,465.00 for improvements on 3 ranch units.

From 1943 to 1970 we recieved lease on our Oscura Mt. Ranches. A total of 33 years. Always getting threats of condemnation procedure if we didn't take their offer. Then our law Firm had a fund set up that we could receive a little help until the Govt. decided what to do. In 1975, we recieved $60,600.00 for our patinted land a total of 1440 acres of deeded land. We paid taxes on this 1440 acres of land until the Govt. bought it for the sum mentioned above. We got our last lease payement on this land in 1970.

From 1954 to 1982 we paid for State Lease land in our allotment until the contracts were terminated. All the time the Govt. was using it A TOTAL OF 28 YEARS.

From 1975 to 1979 we received $535.00 a year for our state lease then the Corp. of Engineers brought a new lease for us to sign and it was for $688.00 per annum. We refused to sign it, but told them we would if they would raise it to a $1,000.00. Then we gota letter containing a condemnation suit and finally under threat we signed for $688.00 per annum and it was a full year before we got any money. Then this contract was terminated in 1982. We could have had an independant living and been able to leave our children and their families their rightful inheritance.

We were unable to send any fo our son's to collage. Due to the financial problem rendered to us throught waiting for a better lease from the Govt. or turning our ranches back to us so we could go ahead and plan a future there.

I now am 73 years old this coming Sept., my wife will be 63 years old in Oct. our sons are 46, 43, and 35 years old so this tells you how long we have waited for our dream to be fullfilled. David was 1½ years old and will soon be 43.

I could add a lot more to this, but like always you get tired and can just do so much. I could add all the bother we have had with Army personell, tearing down fences, leaving gates open, turning our stock out to travel miles before we could get them back in. Filling in cattle guards on Oscura Range camp road when they graded it and etc.

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Senator Domenici. Thank you very much.
Pat Withers.

STATEMENT OF PAT WITHERS, OSCURA, N. MEX.

Mr. Withers. ~~Mr.~~ Mr. Chairman, my name is Pat Withers. I reside in Oscura, N. Mex., on what is left of my ranch. I am appearing on behalf of myself and the other co-owners of the Withers' ranches. My family and I homesteaded one ranch in the early thirties in the Oscura foothills in what is now the White Sands Missile Range. We bought a second, adjoining ranch in 1942. In my family's case, the two ranches totaled 41 sections, 26,240 acres.

The first ranch had 21 sections. Of this 3,200 acres is patented land; 240 acres State-leased land and the rest public domain BLM-leased land. It has a carrying capacity of 280 head. The second ranch has 20 sections, 1,600 acres of patented land, 4,200 acres of State-leased land, and the rest public domain BLM-leased land. It has a carrying capacity of 550 head. The total carrying capacity of the two combined ranches is over 800 head.

In 1941, somebody started a war, and the Government said, we need a practice bombing range, so why don't we just move this bunch of ranchers off their land and tear down all their improvements. We will pay them a small lease and promise to return their land and restore their improvements when the war is over.

So this was exactly what they did. We were not paid anything for relocation. They just set a deadline for us to move off and sent a U.S. marshal around that day to be sure we got out.

When they told us they were going to take the ranch, we drove all over Arizona and New Mexico trying to find a ranch that would compare with ours. Because the lease money the Government offered was so little, we could not put much down on a down payment and when the banks learned that the land we had for collateral was on the bombing range, they would not accept those conditions. The lease payments from the Government for our ranches were no help. They were so small they did not amount to much and we did not receive anything until after the end of the first year.

So, due to this, and not getting any moving compensation from the Government, we had to take what limited funds and borrowing power we had and start with something of lesser value. My dad had bought some land east of the lava beds before the war started, and by all of us getting outside jobs, we were able to buy more land adjoining this and have some place to move our cattle off the bombing range.

We lived in good adobe homes before we were kicked out and because we received no relocation expenses, we were forced to live in two-room shacks lined with cardboard boxes. We had to dig cisterns because the water was not fit to drink. This was very difficult for the women and children to adjust to. Our children suffered the most because they had to ride a 75-mile school bus route, leaving home at 6:30 a.m. and returning at 6:00 p.m.

We all went to work and began slowly to build up the new ranch, east of the lava beds. We tried to get back in the cattle business, but in 1944, the Government decided the range was not big enough. They therefore wanted to add 3 miles to each side as a safety zone. This addition was enough to take in most of the new ranch we had built up. So this was heartbreak all over again. We were allowed co-use to run cattle but had to move to town with our schoolchildren.

In 1948, they quit paying lease money but would not return our land. We were allowed to move some cattle back but not to live on it. The houses had been torn down and most of the fences were down also. We tried to make the Government restore the ranch to the original condition, as when they condemned it, like the agreement said, but this was ignored. Since the war was over and they could not play on our patriotism, they just stalled us and ignored our right to return home.

In 1950, the Government decided they wanted a missile range. Since the bombing range had not been turned back, although no lease was being paid, someone made the decision that they had a good start right here. The ranchers held a meeting and all agreed that they would rather have their ranches back than to lease them again.

The Government called a meeting in Alamogordo and sent H. K. Shadel, a Corps of Engineers representative, and a lawyer named Cooper to do their dirty work. These Government men had to know that all ranches in this area of the West are valued on their cow-carrying capacity, plus improvements. But they must have figured that if they valued our ranches this way, it would force them to pay more for the lease payments than they wanted to. So the Government men decided to split the ranchers and pressure them individually with threats of condemnation suits and U.S. marshals arresting them.

The way they split the ranchers was to approach a few of the smaller ranchers from the south end of the bombing range and offer them more lease payments than they expected to get and they took it. This broke the unity of the ranchers. After that, each rancher was forced to go on his own and since most of them needed either their land back or some lease money to survive, we were at the mercy of the Corps of Engineers to pay what they wanted to.

Many deceitful tactics were used to show that this country was worthless for anything but a missile range. As a result, we were forced to sign another lease with very small lease payments.

In 1980, the Government decided they wanted to own the ranches outright—which should have been 1970 instead of 1980—and not pay any more lease payments. But in making their offer of a price, they refused to recognize that our ranches were operating units, capable of carrying over 800 cows. They said the public domain BLM leases could not be recognized and neither could the State leases. Without these leased lands, of course, our patented lands were not worth nearly as much as if they were considered a part of a ranch unit, which they surely were in fact.

We were forced to hire a lawyer to keep from being totally taken advantage of and did receive more than was originally offered for patented land, but got nowhere near the fair value of our ranches.

When my mother died, we paid inheritance tax for all of the land. When the Government is paying out, only patented land is worth anything, but when you owe them, the whole ranch is valued as if it were being sold on the open market. We had the same trouble with getting money in lieu of restoring the improvements on our ranches.

The Government said that the improvements were worth almost nothing, because they were on ranches that were just about worthless. Never mind that they were the ones who got them in that shape in the first place. We finally got a little money out of them, but not enough to restore the ranches to their original condition.

To sum it up, we have never received any money for relocation expenses. We have been lied to and taken advantage of for over 40 years. Our last hope of getting any kind of justice at all is through Congressman Skeen's bill and I would sure appreciate your supporting it.

Thank you.

Senator DOMENICI. Thank you very much.

Mrs. Ortiz.

STATEMENT OF PRISCILLA B. ORTIZ, RIO RANCHO, N. MEX.

Mrs. ORTIZ. My name is Priscilla B. Ortiz. I presently reside at 778 Wagon Train Drive, Rio Rancho, N. Mex. I am one of the devisees and personal representatives of the Baca Estate, a cattle ranch which is presently a part of the western side of the White Sands Missile Range. I am inheriting my interest in the Baca Ranch from my brother, Hermenez Baca, who in turn from my mother, Barbarita Baca, who inherited part of it from my father, Geronimo Baca and part from my grandfather, Carpio. The ranch consists of deeded land, public domain BLM leased land and a small parcel of State leased land.

In the early 1940's, the Government, under the threat of condemnation, forced my father to lease to them all but 162.5 acres of the ranch. My father felt that the lease payments never represented the fair rental value of the property but since the Government threatened condemnation, he felt he had no choice.

I recall that his lease payments in July 1950 were $2,000 per year, which then decreased in 1969 to $1,450, in 1974 to $1,088, in September 1974 increased to $1,220 and in 1982 to $1,830. In none of these years did the lease payments even begin to approach the return on land used in a normal cattle operation.

I remember my father saying the lease money was way below the amount he would have received from the sale of cattle, and retiring earlier than he had planned would necessitate his living off his savings in his late years, which he did have to do.

At one time upon termination of the annual lease with WSMR, I remember that the Government offered to pay much less on a subsequent lease, which really upset my brother. He commented, "It is so frustrating; I feel my hands are tied. One has to take their offer or leave it." However, in 1980, $3,625 was paid to adjust leasehold from 1970 to 1980 to placate him, I suppose.

In 1948 my father and I took a trip down to the ranch. Dad had a yearning to see his ranch. The armed Government employees at the gate would not let us through at that time. I remember my dad exclaiming "I am not allowed to go into my own ranch." The war was over, but still the Government was asking the ranchers to continue the sacrifice.

In February 1958, my father died and my brother, Hermenez decided to start the cattle business again under the couse clause of the lease. He really had it tough. He had to repair fences, drill a new well and build living quarters for himself. He had to contend with periods of drought and borrowed money from private sources and the Production Credit Association to keep going. However, he perservered, figuring if my grandparents with a family of 12 and my parents with a family of 6 could make it, my mother and I can make it.

Then in July of 1980, the Government announced it was taking over ownership and offered the magnificent sum of $45,600. My brother said that they would not even consider the price of the wells, buildings, fences and other improvements. So he hired the attorney Arturo Ortega of Albuquerque to fight the condemnation.

The Government was virtually forcing him to accept their offer, which I believe was not based on carrying capacity but on superficial appraisal. In fact, during the hearing in Las Cruces in March 1982, the U.S. attorney actually had the gall to say that the land was not of much value because it was not close to a metropolitan area and because it had been called jornada del muerto by the Spanish explorers.

Since that ancient time, of course, wells have been drilled for the cattle to water and the ranch was a thriving cattle operation. His comments showed his complete ignorance or his unreasonable prejudice. In my testimony, my lawyer question me as to what I had seen during my many visits to the ranch and I answered cattle. Isn't that ridiculous? The U.S. attorney intimated that we could not make a living there, and this was the man our Government had sent to help establish the fair value of our ranch.

The $45,600 was left in trust with the court, because my brother, Hermenez, was afraid that accepting it would be tantamount to agreeing to their offer for good, as it is a known fact that it is hard for the Government to reverse any action it takes.

On April 13, 1981, our attorney wrote to the Corps of Engineers asking them to withdraw from taking this ranch for several reasons, the main one being that it would leave my brother with so little land as to put him out of the ranching business. In other words, it would wipe him out and create an extreme hardship on him. However, no go. The Government had spoken.

My brother Hermenez's physical condition began to deteriorate in early 1980. The Government's unfair taking of the ranch took its toll on his psychological and physical condition. In fact, when he was at my home once and we took him to the Lovelace Hospital, his doctor reprimanded him for leaving the hospital the previous time before completing his treatment. He answered, "I have to leave soon now too; I am worried sick. The Government is trying to take the ranch away from me."

We have a tape recording of my father which we recorded on the Christmas 1957 before he died, in which he says that the "bombardeo" had destroyed the living quarters, an attached garage and a wagon and that the White Sands Missile Range had locked the windmill. He also says in the recording that he had made a list of the items the "bombardeo" had destroyed and he was expecting the Government to reimburse him for these. So far I have been unable to find any record of this reimbursement. It should have been paid because the terms of the lease required it.

We feel we have no legacy in the form of property to leave to our families. My brother Hermenez died July 1982, 5 months after my mother passed away, February 1982. The ranch responsibility has now fallen on my shoulders. The condemnation hearing was held in Las Cruces in March of 1983. To show the unreasonableness of the Government's offer of $45,600, the final decision was $94,400 plus $8,906 interest on $48,800, or about twice what the Government wanted to pay.

But even so, out of this total we had to pay the lawyer $20,700, the appraiser $4,422.92 and about $500 in other expenses. So all in all what we had left was no more than what one would pay for the median price of an ordinary house.

I might add here that access to what is remaining 162.5 acres has been closed from the north, thereby extending access by almost 150 miles more and necessitating going through TRC and then through Engle and a very rough 40 odd miles to the ranch.

Can anyone imagine the strain of lawsuits people from these ranches have gone through? This taking has been an emotional strain on me as it was on my mother and brother. On my last trip to the ranch after disposing of my brother's cattle, vehicles, and personal effects, as we were leaving, I thought this is an end of an era, an end of a family, an end of roots—yes, an end of a heritage. I cried all 147 miles to Rio Rancho.

Losing my dearest mother, my beloved brother, with whom I was very close, and now the ranch that had been the source of our life and living was pretty darn hard to bear, and for so little compensation for the ranch.

As Senator Domenici said in his article about the Equal Access to Justice Act, which he sponsored, "To fight the Federal Government with its unlimited funds for legal defense meant to fight a losing battle."

So I ask your help in righting this great wrong. Please support Congressman Skeen's bill to provide a reasonable solution to this conflict.

Thank you for your courteous attention.

Senator DOMENICI. Thank you very much. David McDonald.

STATEMENT OF DAVE McDONALD, SOCORRO, N. MEX.

Mr. McDONALD. My name is Dave McDonald. I presently reside in Socorro, N. Mex. I am appearing on behalf of myself as the owner and former operator of a cattle ranch which is presently a part of the White Sands Missile Range. I am 82 years old. My grandfather, Michael McDonald, moved to Texas after the War Between the States and my family has been ranching in New Mexico since 1875.

In November 1924, I bought my sister-in-law's ranch and cattle, located about 60 miles northwest of Alamogordo, N. Mex. The ranch consists of about 640 acres of patented land, 21,188.8 acres of Federal BLM land and 1,920 acres of New Mexico State leased land. By 1942, I was permitted to run 440 head of livestock under my Government BLM leases.

In September of 1941, two Government land men from the Corps of Engineers came to the ranch and looked it over, because they said the Government needed an air-to-air gunnery range. Then during the middle of our fall roundup, I received a notice in the mail that the Government intended to lease our ranch for 20 years or until the war ended, whichever came first, taking exclusive possession of the property and that we were to get out. No further details were provided.

Some weeks later another Government land man named Olson came out and got very belligerent because I had not already moved out. I asked him where I could find a place for all my cattle if, as he said, so many other ranchers in the proposed range had to move at the same time. He got very sarcastic and threatened me with criminal charges for not giving possession.

I was told that all I could take from the ranch was the livestock, vehicles, and household goods. Everything else had to be left. I was told it would be guarded and returned, along with the ranch when the war was over. Time and again, I was told that although the lease was for 20 years, it could be terminated at the end of any year at the option of the Government and that they would terminate it as soon as the war was over. They continually appealed to my patriotism to sign the lease and threatened me with criminal action if I did not.

The problem was that the ranch was my livelihood and the sole support for my family. If I was going to exist, I had to find a new ranch promptly and move my cattle to it. I finally yielded to the pressure of the Government and agreed to move. I moved my family to a rented house in Socorro and found a ranch for sale for $50,000 near Corona. But I had very little cash and when I tried to find out from Olson how much the Government was going to pay me for the use of the ranch, he refused to give me any information but continued to berate me me for not having moved my cattle.

When I explained that I could not use my present ranch for collateral because it was being leased and that I had to have some cash to buy a new ranch, he just snapped back, "You are not supposed to be on that ranch today. You have been notified to get off of it." He then said the U.S. marshal would tend to me that very day.

I therefore could not close a deal to purchase a new ranch and all the other ranchers being displaced were bidding up the available rental ranches. I finally made a deal to rent pasture for about half my cattle, but the moved was forced on me right in the middle of my calving season. The move required me to trail the cattle overland to Rancho, N. Mex., about 100 miles and the new born calves simply could not make the trip.

I was forced to sell three-fourths of my herd for about one-third of what would normally have been their fair value. Because of the shortage of available pasture and of cash, I finally had to sell the rest of my herd at a distressed price in April of 1943.

Because of my not being given enough time to gather the stock off my ranch, I was forced to leave behind about 20-head of cattle, three mares, two colts and two mules. No accounting has ever been made to me for this stock and its increase, although roundups and sales of both cattle and horses are made from time to time on the range.

During this time that we were trying to hold things together and get moved, when my father Tom McDonald had to sell his cattle to my brother Rube and they came to move the cattle off, he told my sister-in-law Ria Lee that I would rather them stand me up against this rock wall fence and shoot me than for them to take my ranch.

The day the Government came to get him off he was unable to get word to me, but someone got word to Snooks and Laura Burris. She is now Laura McKinley. They drove to his Mockingbird Ranch as fast as they could get there. As Tom said, he was not going to leave his ranch. When they arrived Tom was standing in the yard with a .45 caliber pistol in his hand, crying and cussing the men sent to get him.

There were three men, two MP's and a U.S. marshal, who had driven up in a U.S. Army jeep with a machinegun mounted on it.

My brother Ross finally got the gun away from him and loaded him in the pickup. The officials in the jeep then followed them to the boundary. My father was 72 years old at that time. He died 3 years later at the age of 75. He was a very healthy man until they took his ranch away from him and his life expectancy was good as his father died at the age of 101.

It would have been more merciful if they had shot him, as he never recovered from the loss of his ranch and he grieved himself to death over it. He died a very bitter man, completely disillusioned with the U.S. Government.

Because of the lack of pasture, my cattle business died but I had hopes that the rent money from the ranch lease would at least give me enough to live on and support my family. But that was not to be true. The lease payments proposed by the government were too ridiculously low to even support my family. I therefore refused the various Government offers until December 1945, when I finally gave in and accepted.

There were many arguments even then with the Government and when I finally began to receive the payments in 1947, 5 years after I was kicked off the ranch, they averaged out to about $200 per year.

These payments continued until 1948 when the Government finally allowed me back on my ranch under the co-use clause of the lease, which was at the Government's option.

When I returned to the ranch, I found it devastated. Miles of fences were ripped up, corral and chutes torn down and burned, water tanks destroyed and windmills damaged. Even earth speader dams which I had built to control erosion were destroyed and erosion was severe.

The lease required the Government to repair the improvements or pay me cash for the cost of repairs. I took an appraiser to the ranch on August 27, 1982, who estimated the cost of restoration to be $514,100. Back in 1948, I accepted the government's first payment for improvements. It was far too low, but I desperately needed the money to put toward the improvements so I could get back into the cattle business, which was my only livelihood.

But the offer for the second set of improvements was only $4,000. To this date I have rejected this offer as an insult.

In a Federal comdemnation case brought against me in June 1983, I was informed by the Assistant U.S. attorney, Ray Hamilton, that Federal Judge Howard Bratton has ruled our improvements to be imaginary. He further stated that the improvements do not exist and did not exist on the date of take.

I guess I imagined all of the money I invested in these imaginary improvements, plus all the work I did on them through the years since 1924.

I thought for awhile in 1948 that except for the arguments over the value of destroyed or damaged improvements, my ranch situation was pretty well under control, with the Government allowing couse. Therefore, when they came to me with a new lease to sign, I agreed. After all, if I could use the ranch, I was back in the cattle business, the only business I had ever known and the fact that the lease payments by the Government were way too low was not important. I am not a greedy man.

But shortly after I signed the new lease, the Corps of Engineers promptly canceled the couse clause and I was again told to get out. No reason, just get out of town.

I then became convinced that the only reason the Corps of Engineers let me back on the ranch, and spend what little money I had on restoring the improvements and built up my hopes for continued couse, was just to get me to sign a new lease to allow them to grab my ranch for 20 more years, leaving me to starve.

In recent years, the Corps of Engineers has offered to buy my ranch, but the offers are ridiculously low because they refuse to offer any amounts for my grazing permits, which account for a large part of the cattle grazing capacity of my ranch. Without the permits the ranch could not operate. They also take the position that all the improvements are basically worthless, even though under the lease they must restore or pay for them.

I have continued to refuse these Corps of Engineers' offers, because they are nothing but an attempted land steal and I won't go along with it.

In the meantime, for all of these years, I have lived from hand to mouth, supporting my family with any job I could get, security guard, laundryman, mowed lawns, chopped weeds, and dug ditches.

I kept hanging on because the Government promised to return my ranch at the end of the war and I know that it can be returned to me at any time they see fit. My attorney fees over the years of this controversy have run over $20,000 and I have incurred substantial travel expenses. I just want the U.S. Government to honor its commitments to me the way we expect them to do with anyone else.

Patriotism was the key word used by the U.S. Government in order to get us to leave without protest in 1942. Not only did we give up what we had accomplished, we also gave up our heritage of what our fathers and grandfathers had built. In addition to giving up our homes and livelihood, we also sent our fathers, brothers, and sons to fight in World War II.

And, yet, the U.S. Army Corps of Engineers seems determined to destroy us like vermin as though we are desert rats. They were not able to kill us outright, so now they are aging us out. Very few of the original ranchers and miners involved in this land grab are still living.

In conclusion, I request that you support Congressman Joe Skeen's bill, H.R. 4022, as providing a reasonable solution to this sad situation, which never should have happened in the first place and which fulfills the Government's obligations to its innocent citizens.

I thank you.

[The prepared statement of Mr. McDonald follows:]

My age is 81, I was born July 5, 1901 in Tularosa, N.M., I will be 82 years old on July 5, 1983.

My grandfather Michael McDonald was born in Cork, Ireland, he emigrated to this country and fought for the Confederacy then moved to Texas. He started ranching and farming - then married Annie Carter and had quite a family of 10 children. My father Tom McDonald was born in Bracketville, Texas - August 29, 1870. While moving to the ranch in the Sacramento Mountains in New Mexico, 2 of Michael and Annie's small daughters burned to death while resting the cattle along the river. My father was only a small boy during this move, about 4 or 5 years old at the time, but rode horseback to help move the cattle to the ranch at Sacramento.

My father Tom McDonald met my mother Janie Butler at Sacramento, they were married there in the Sacramento Mountains. He told me that he used to work cattle with other ranchers where Alamogordo now is, when there was nothing but cottonwood trees there.

When they left the Sacramento ranch, they went to Arizona and worked cattle near Wilcox, in the Chirichua Mountains. Indian trouble forced my father to take my mother to Fort Huachuca, Arizona where he worked for the Army as a butcher.

They returned to New Mexico in the late 1880's, Tom bought his father Mike's cattle as Mike decide to go into farming in Tularosa. Tom and Janie then moved to the Jornada, about 3 or 4 miles from my my ranch, that I was forced to leave in 1942. The only water you could get in those days was with a pick and shovel or a windlass and the top water was bad - it was later discovered that you could take a drill and go down a little farther and get very good stock water. Tom finally bought the Mockingbird Spring - every stock watering place, he owned - springs or wells, he bought from someone else. He later moved to the Mockingbird Ranch after buying his brother-in-law's interest out and established our home ranch - he later bought 8 other ranches, all near our Mockingbird Ranch.

Tom and Janie's family consisted of 8 children, 6 survived, 4 sons and 2 daughters - George, Ross, Dave, Rube, Annie and Emma. They lost 2 children, Maggie died when she was about 6 years old of a childhood disease and Robert - a twin to Rube- was stillborn. I, Dave McDonald was born on July 5, 1901.

The ranch life was tough but it was enjoyable. The whole family worked, side by side, in order to build the ranches. When we just had the open range, every ranch hand had to have at least 8 horses to ride to take care of the cattle. Horses were the only transportation we had in those days, horses or 4 mules and a wagon. We got our first car in 1918, a Model T Ford, but the roads were still bad and it was tough traveling.

My dad started all of his kids out with cattle when they started ranching. He had a good stock of cattle, Durhams at first and later on he mixed them with Herefords.

I married Mertes May Townsend on May 24, 1921, we bought my sister-in-laws ranch and cattle in November 1924. I was working for H.O. Bursum - he was elected U.S. Senator from New Mexico that year - I had to leave that job to go help tend to the cattle on April 5, 1925.

Cattle prices began to go up and we paid for the ranch and cattle from the increase of the cattle we bought and from the cattle we already had. We paid the debt and increased our cattle 100% in 5 years.

During these years we had 3 children, 2 daughters and a son. My first daughter Eunice died at 17 days old, July 27, 1922, our next daughter Ray was born April 28, 1926, our son David Guy was born January 15, 1932.

I went along making money and banking money until the drought and depression hit, cattle got so cheap as well as other things. After the depression we went right back into making money on our cattle. In the fall of 1936 we blood-tested 629 had of cattle at the ranch. My BLM Permit (copy enclosed) in 1942 gave me a carrying capacity of 440 head of livestock. J.R. Ahl, head of Districts 4&5 for the BLM came out in November 1941 and found our range very much improved. I do have a document signed by different parties verifying the range conditions and signed also by Mr. Ahl himself.

On September 5, 1941, two men came to the ranch, their names were H. Meerscheidt and Wm. L. Salvage. They told us the government was needing a air to air gunnery range, I asked them what air to air meant and they said "dragging targets and shooting at them". I rode around with them for a couple of hours, looking at the range. They came back to the ranch and Bill Salvage took a pad from his pocket and started walking around the houses and up on the dirt tank dam. He asked about the patented land and state land, how much there was and where it lay and I told him. They left and I saw no more of them for some time, in fact not until we were moving did I see them again.

We were taking our calves to Oscura to ship them in the fall of 1941 and somebody brought the mail to us, notifying us to get out and give possession. Some weeks after that this fellow Olson came out and got very belligerent with us. We asked hime where we could find a place to take that many cattle, if that many ranchers had to get out. He got very sarcastic and threatened us with criminal charges for not giving possession.

We started looking for ranches and found one up by Corona, after a lot o miles looking for ranches and contacting realtors. The price of that ranch was $50,000.00, so I went to Alamogordo to see if I could find out how much the government was going to pay us for the usage of the ranch. I went to Olson's office, he immediately asked me " What have you done about getting off your ranch?". I told him that we had been out looking and what we had found and the price of it. I just politely asked him what the amount of lease might be on the ranch, so I might possibly make a deal on the ranch at Corona. He snapped right back at me " Your'e not supposed to be on that ranch today, you have been notified to get off of it." He got very belligerent with his language and told me a United States Marshal would probably tend to me that day, that the Marshal was supposed to be in town. When I got back to the ranch that night, more papers had been served on my wife.

I finally got a hint about the Richard Ranch up by Ancho and made a deal to pasture about half of the cattle. We set out to move the cattle with what help we could get, mostly young boys and old men.

We drove the cattle over to my Dad's place the Mockingbird, by going that far we found out we could not drive those cows & baby calves all the way to Ancho, which was about 70 more miles. We also had lots of cows calving, since this was in the spring and those cows couldn't be kept up in the herd as they were calving day and night. I finally put 18 baby calves in a 3/4 bed pickup and hauled them along with the drive. We finally gave up and drove 1/2 of the cattle back to the ranch and drove the cows with the larger calves on to Ancho, along with the dry cows. On the drive home I met a cattle buyer and the price I was forced to take was less than 1/3 the value and that was cow price only - calves just had to be thrown in for nothing. He considered the calves to be a loss, since a lot of them would be lost in shipping.

During this time, that we were trying to hold things together and get moved, when my father Tom McDonald had to sell his cattle to my brother Rube and they came to move the catlle off. He told my sister-in-law Ria Lee "I would rather them stand me up against this rock fence and shoot me, then for them to take my ranch." The day the government came to get him off he was unable to get word to me, but someone got word to Snooks and Laura Burris. (She is now Laura McKinley) They drove to the Mockingbird Ranch as fast as they could get there, as Tom said he wasn't going to leave his ranch. When they arrived Tom was standing in the yard with a 45 caliber pistol in his hand, crying and cussing the men sent to get him. There were 3 men, 2 M.P.s and a United States Marshal, who had driven up in a US Army jeep with a machine gun mounted on it. My brother Ross finally got the gun away from him and loaded him in the pickup, the jeep then followed them to the boundary. My father was 72 years old at that time, he died 3 years later at the age of 75, he was a very healthy man until they took the ranch away from him and his life expectancy was good as his father died at the age of 101½. It would have been more merciful if they had shot him, as he never recovered from the loss of his ranch and grieved himself to death over it.

We were told that all we could take from the ranch was household goods, vehicles and livestock, the rest must be left and it would be guarded and returned when the war was over and we could go home. I asked Olson if we could take a gas engine to where we had moved 1/2 the cattle and he informed me that if we took anything like that - he would have to be informed because they had taken an inventory. I found out later on that was just another Big Lie, he told me.

I had rented a house in Socorro and moved my wife, son and daughter to town. The government did not give us or even offer any money or help on moving expenses, it was just Get Out and Get Out Now, it didn't matter if you were broke that was your problem not the government's. They also wouldn't tell me how much the lease payments would be or even when the lease payments would start.

We left behind about 20 head of cattle, 3 mares, 3 colts and 2 mules, due to the short time we had to get out and were not given enough time to gather.

I returned to Ancho to look after my cattle and to try to keep what was left of my herd together. I found a little more pasture at Bill Gallacher but I had to get them off by April 1, 1943. I couldn't find any pasture after that date and was forced to sell the rest of my herd at that time.

I went back to Socorro and damn near went crazy with nothing to do, no cattle to look after and having to live in a town. My brother George had bought a ranch on the east side of the Bombing Range and I went to work for him and that summer my 12 year old son joined me there. We left because of the danger created by the United States Army - the 50 caliber machine gun bullets got too thick and when the block buster type bombs started hitting all around us, it was time to leave. It got so bad that my brother George, abandoned that house and built another on the east side of the lava beds, he had to start again from scratch. To add insult to injury the WSMR personnel came to him again in the 1950's and wanted hime to move again, as they planned to move the eastern boundary line up to the railroad. He had lost the 3 Socorro County ranches, the Seven Bar, the Burnt Well and the Murray in 1942, he had to move again because the Army couldn't or wouldn't control their bullets and was not about to move a third time. He told them that he wasn't moving one Goddamned foot farther, that he would lay up in those lava beds with his 300 Savage Rifle and would deal with them there.

I was unable to make a new start because I couldn't use my ranch as collateral to borrow on another ranch and my cattle had been disposed of for practically nothing. The reason I kept hanging on for 41 years is that the United States Government stated in their lease agreements that my ranch would be returned at the end of the war and could be returned to me at any time they saw fit. In fact in the 1950's they promised we would get co-use at any time.

As I mentioned earlier my ranch had a carrying capacity of 440 head, when I finally started receiving lease money in 1946 or 1947, after the Corps. of Engineers got through screwing up the payments I received a little over $200.00 per year. Because I had refused all of the Corps. of Engineers offers until December 1945, I have been forced through all these 41 years to retain various attorneys to get any of my money from the Corps. of Engineers and I have received only a portion of the total amount due me. I have an offer of $5460.00 per year signed by Henry K. Shadel of the Corps. of Engineers dated May 12, 1949. I accepted that offer under duress, but then only received $2545.00 per year. I have been harassed by the Corps. of Engineers through the years to the extent, that in 1945 they filed charges for trespassing with livestock against me in Federal Court, when they knew beyond any doubt that I was out of the cattle business, because the Army had 200 or more men living in my house and surrounding barracks which they had built at my ranch, and they all knew I had been completely out of the cattle business since April 15, 1943, as they were the cause of the loss of my livelihood. I was out more attorney fees answering these charges. My attorney fees and travel expenses for the past 41 years run over $20,000.00. I have attended every meeting that pertained to my ranch, I have made countless worthless trips trying to get this United States Government to honor their written agreements and offers - all have been for nothing. Sometimes I feel that I should have been born a wild jackass or worthless inbred mustang - for by all accounts they have more rights than any of us ranchers have got. Think of the expense the government has gone to, to preserve their range, while destroying the pioneer ranching families in New Mexico.

In 1948 I returned legally to my ranch and started repairing the damages that the government personnel had done to my property. Joe Gramm, Pete & Jess Gililland and myself did most of the repair ourselves. I had to hire a D-8 Caterpiller to repair the erosion they had caused by removing spreader dams I had built previous to ranch take-over. We had to rebuild miles of torn down fences, corrals, loading chutes and branding chutes. We repaired windmills and my house. Since I didn'thave a herd, I leased the ranch to my neighbors who had cattle. The reason we replaced the improvements was the BLM notified us that we would have co-use or the ranches as a whole would be returned to us. After we signed a new agreement with the understanding of co-use, we were told to get out again, no reason was given just Get Out!

One room of my house is filled with 41 years of correspondence, that I have written and received from various congressmen, senators, presidents and any agency of the government I could think of that could help straighten this government created mess out. Most of the replys I have received state that my letters will be forwarded to higher authorties and that is the last I hear of my letters. I asked then Senator Jack Schmitt on October 17, 1982, in the presence of General Niles J. Fulwyler if he had seen any of my letters on the moon when he walked on it. He replied no and asked why? I said " For 40 years the government has been telling me that they are forwarding my letters to higher-ups and I just figured they had to be on the moon by now."

I accepted a settlement for the first set of my improvement damages, in order to restore my improvements in 1948. It wasn't a fair price, but I needed the money to help put my ranch improvements back, to get the ranch in working condition again in 1948. The offer I received for the second set of my improvements was a ridiculously low figure of about $3,000.00. An appraiser, who I took to the ranch on August 27, 1982 estimated the cost of restoration at $514,100.00. I have refused not only the Corps. of Engineers offer for my improvements but also their offer for the purchase of my ranch. The Corps. of Engineers refuses to recognize carrying capacity basis for the purchase of my ranch. Either they buy the total ranch at todays market value or I have nothing for sale to the United States Government. This is a "land steal" and I will not go along with it. When the government tries to deal with us on our improvements , they always tell us the improvements are worthless. Even on the pictures, the government takes of the improvements, they stamp deterioration of ranch. But most of our improvments have been hauled off, torn down, or vandalized by government personnel. It has to be the government personnel inflicting this damage, as every time we are granted permission to visit our ranches, we are escorted by generally armed guards and our every movement is watched and we are not allowed to remove any of our property.

In order to make any kind of a living at all for my family, due to my lack of education combined with no job experience except ranching

I've worked at any job I could get. I've worked for other ranchers, for N.M. Institute of Mining & Technology as a security guard, I've even worked at laundries, mowed lawns, chopped weeds, dug ditches and picked up aluminum cans - in other words anything I could get to support my family for the last 41 years. It's damned hard to live in town and support a family without a steady income.

I want the world to know that when the government took the ranch away from me and I lost my cow business, it messed up my rights for Social Security. In other words they put us out of business before the Self-Employment Social Security Act was made into law, therefore we can only draw the very minimal amount of Social Security and yet the government refuses to pay me for my ranch which has been appraised at over a million dollars. All of my neighbors have been treated the same way by this government.

My family now consists of my wife of 62 years, Mertes who is 81 years of age, my son David Guy, who is 51 years of age, 6 grandchildren, and 5 great-grandchildren. My daughter Ray died July 15, 1982 at 56 years of age. Patriotism was the key word used by the United States Governement in order to get us to leave without protest in 1942. Not only did we give up what we had accomplished, we also gave up our heritage of what our fathers and grandfathers had built. They, who had spent their lifetimes building a better world for us, mostly with picks, shovels, windlasses and buckets. In addition to giving up our homes and livelihood, we also had to send our fathers, brothers and sons to fight in World War II. We are the reason World War II was ended so quickly in the United States of America's favor, for without our land, the Atomic Bomb tests would never have taken place. And yet the United States Army Corps. of Engineers seems determined to destroy us like vermin, as though we are desert rats. They weren't able to kill us outright, so now they are ageing us out, very few of the original ranchers and miners are still living. I am serving notice at this time, that they are still in for one hell-of-a-fight as our children, grandchildren and great-grandchildren will never let this matter die. The government has also robbed them of their heritage and destroyed our very old and basic American way of life.

On August 20, 1982 and again on August 27, 1982, Florence Martin, a fellow rancher, my niece, Mary McDonald and I visited our ranches under escort. At that time, we took numerous pictures of cattle grazing on all the ranches we were able to visit on the White Sands Missile Range. This is nothing new as this grazing of other people's cattle on our land has been going on for the past 41 years.The government has sanctioned this theft of our graze and are very aware that this continual grazing has occured even though the government denies that any cattle are there. Mary took a picture of a cattle-crossing sign, 12 miles inside the boundaries of White Sands Missile Range. Further proof is a government report which she was able to acquire, which states that "6519 head of livestock have had freedom of movement into and use of grazing resources with the range since 1943", the report is dated October 28, 1981. It was also brought to our attention, that the horses we were all forced to leave behind have multiplied and there have been numerous round-ups of these horses, which have then been sold. We have been unable to find out, where the proceeds of these sales go.

Because of the fact, that the United States Government had ignored our problem and our rights for over 40 years, my niece Mary and I decided there was only one option left. On October 13, 1982, we reclaimed my ranch, 3½ hours after we arrived at my headquarters, we were finally discovered and all hell broke loose. We were accused of trespassing, even though we had the deed in our possession, along with my Notice to Vacate, sent to James B. Grant, U.S. Attorney, dated June 25, 1977. We held out and refused to leave until we were allowed to meet with Bob Jones, New Mexico Cattle Growers' Association President, who is now our Spokesman, representing the White Sands Missile Range Recovery Group. Assurances were given and promises were made to us, that a full investigation would be made and a ranchers committee would be established to oversee the condition of our range, by then Senator Jack Schmitt and Congressman Joe Skeen and General Niles J. Fulwyler, Commander of the WSMR. I fully believe our congressmen are trying to the utmost of their ability to get this controversy resolved in a fair manner, I also believe that the Corps. of Engineers is doing everything in their power to block our congressmens' efforts on our behalf.

I am serving notice, if this problem is not solved within a reasonable lengeth of time, my niece Mary and I will return to my home, along with many of our relatives and neighbors, to our ranches and this time, WE WILL NOT LEAVE.

Dave McDonald

Dave McDonald

Senator DOMENICI. Thank you, Mr. McDonald. Mr. G. B. Oliver, Jr., Alamogordo.

STATEMENT OF G. B. OLIVER, JR., ALAMOGORDO, N. MEX.

Mr. OLIVER. Thank you, Mr. Chairman. It is a privilege to be here. I am G. B. Oliver, Jr., and I am manager of White Sands Ranch. I am appearing on behalf of the Oliver family who are the owners of White Sands Ranch. We have submitted for your consideration what we call the White Sands Ranch story, a detailed report, step by step, of what happened to us on White Sands Ranch and also a response to the GAO findings.

I was reared on a small ranch south of Alamogordo, N. Mex. My father had homesteaded this place in the twenties and gone into a small ranching operation. During the Depression, my father sold his ranch and went into a family-operated grocery business, planning all the while to return to the ranching business that we all loved so very, very much.

In 1939 or 1940, my father went into Mexico and spent some time looking for a ranch down there thinking seriously of buying a ranch in Mexico. When he came back, he was visiting with a friend of his who had ranched previously in Mexico and he expressed his interest in Mexico. The friend told my dad, "G. B., do not buy a ranch in Mexico. If the Government ever wants it, they will just come and take it away from you."

He did not buy in Mexico. Instead, in the midforties, he bought a ranch in southern New Mexico in which the western half happened to fall within what is now known as White Sands Missile Range. What happened for the next 35 years certainly does not seem like it happened in the United States of America.

The Government took the west half of our ranch and did not justly compensate us for it. They destroyed the true value of the remaining portion of the ranch by the method used in acquiring the lands on White Sands Missile Range. Who would buy a ranch knowing the Government could take it away any time they wanted to?

Not only has the Government been given dangerous and unlimited powers in the name of national defense, we feel they used the court system to their advantage. This was brought out in the findings of a case brought before the U.S. Court of Claims back in 1981. The court indicated that our fifth amendment rights were ignored and that the method used by the Government was at the expense of the landowners' constitutional rights.

We, as a family, sank every penny we could scrape up to buy what is now known as White Sands Ranch. This really placed us in a financial bind. We were still paying for the total ranch and figuring very closely to do so. Then to have half of it taken out of operation made it very hard to make payments on the whole.

I sat down the other day and figured the yearly lease payment paid to us by the Government from 1950 through 1970 for our ranch unit. That yearly payment was 3.6 percent of what they actually paid us for our deeded land and improvements a few years later. That is not even a fair interest rate. The purchase price they paid us for our deeded land and improvements was actually about a third of what our appraiser valued it as and we got that only through litigation.

When we bought our ranch, we inherited with it on the western half a co-use agreement. This meant that periodically when missile firings were conducted we would leave our premises. They would fire their missiles and we would return home and continue our ranching operation.

In no event was this agreement to extend beyond 6 months after the date of termination of the unlimited national emergency. If I recall, World War II terminated in 1945, but this lease was not canceled until June 15, 1950, 5 years later.

And then in 1950 we were forced to sign a lease suspension agreement under the threat of condemnation for the exclusive use of the same lands which we had leased to them under the co-use agreement. I want to emphasize forced, because a man would be out of his mind to sign a lease agreement in which he would be making about one-fourth to one-fifth what he would be making by running his ranching operation.

The lease and suspension agreement we signed in 1950 was a year-by-year lease providing funds were available for the payment of rentals, and I want to emphasize rentals, of our ranch unit. This agreement was in no event to extend beyond June 30, 1970. It could be terminated at the end of any fiscal year with a 90-day notice from the Government.

It listed all property to be leased from White Sands Ranch, which included privately owned, State-leased, Federal lands and all the improvements. We were to continue paying taxes, State grazing leases and other lease fees unless payments were forgiven by the Government. This agreement stated it would not jeopardize our position in applying for grazing privileges when the described lands were returned to the Federal Grazing Administration.

All improvements were to be restored or paid in lieu of restoration. I must point out that these improvements were on all types of lands: Federal, State, and private owned. We placed improvements where they were needed on the ranch and we felt we were protected under the Taylor Grazing Act as long as we abided by the rules and regulations of the Bureau of Land Management.

During that same period of time, in the mid-fifties, the Government purchased McGregor Range by ranch units on a cow unit basis and paid cash, which enabled those ranchers to purchase other available ranches and continue in the ranching business. Actually, the same personnel, members of the Corps of Engineers, handled both acquisitions for the Government.

In early 1970, at the end of this temporary taking, the ranchers who had land leased to the Government were called to a meeting at White Sands Missile Range headquarters. We were told what wonderful works had been done in the way of national defense on White Sands Missile Range, this range being the best equipped and having the most sophisticated instrumentation in the world.

The Government indicated they would be negotiating new leases with the ranchers in the near future. When we questioned them, we were told the leases would be for somewhat less than they had been in the past. Asking why, we were told that the Federal lands had been withdrawn from public use. In other words, they had taken our grazing leases. We felt this was in violation of the contract.

When we asked about just compensation for these lands under section 315(q) of the Taylor Grazing Act, we were told the lease and rental payments we had received over the past 20 years was just compensation for taking. That lease payment certainly did not even compensate us for the losses we had suffered over that 20-year period, much less the permanent damage done to our ranch unit.

We also found that they tried to get the State to cancel our State leases. The State would not do it, so our State and deeded lands were condemned for lease until they could be obtained. When we were asked about restoration or improvements, we were told we would be paid in lieu of restoration.

As payment in lieu of restoration, we were offered $6,375. We would not accept that. Over the next 2 years, we fought over the value of restoration.

In June 1972, we had come to an agreement of $30,947 in payment of in lieu of restoration. When the agreement came to be signed, it was not only payment in lieu of restoration, they had included full payment for all rights and titles to the improvements. We feel that that is a violation of the contract. The Corps of Engineers had once again used underhanded tactics to obtain property. We were told by our attorney to either accept or enter suit against the Government. We could not afford to enter suit, so we reluctantly accepted their offer.

In early 1970, Judge Payne appointed a commission to help determine a fair lease value of our deeded lands and State lease lands. The Government offered us about 10 cents per acre per year. The ranchers were asking about $1.75 per acre per year. After the hearing, the commission recommended to the court a figure of $1.50 per acre per year as a fair lease value.

The district court approved the recommendation of $1.50 per acre per year and instructed the Government to pay this to the ranchers. This really upset the Corps of Engineers and they refused to pay this, threatening to take it to the court of appeals and on to the Supreme Court if necessary. Again, we were losers and our compensation was set at 74 cents per acre per year for the deeded land and 49 cents per acre per year for State land.

Senator **Domenici**. Might I ask you on that, Mr. Oliver, how did that happen? Why did you have to take less?

Mr. **Oliver**. We never did know, sir. It just, in our opinion, it is that the courts went along with anything the Corps of Engineers asked for and we felt that in this case it was one of those cases. We never found out why, why the decision was changed.

Senator **Domenici**. The judge actually changed it then?

Mr. **Oliver**. As far as we could tell, that is exactly what happened. The judge changed his mind. My feeling, sir, is they put the pressure on the courts in every case.

In 1975, the Government began proceedings to purchase our deeded land. By now we had very little confidence in the methods used by the Government. We obtained new attorneys, hired our own appraisers, obtained well-documented, recent comparative land sales from local realtors.

We felt our deeded land was worth about $250 per acre. Our appraiser indicated, with well-documentation to prove it, that it was worth at least $175 per acre. The attorney for the Government tried to convince the appointed commission that this land had no value, and I can emphasize that a little bit, sir, if you like. He said it was like a satellite in the sky. He said it is there and we know it is there, but he said we cannot get to it and it has no value to us. He said it was isolated parcels of land in a restricted area with no access, unimproved, because all of the improvements had been taken in the little restoration settlement.

We could not even use a water well as a thing of value. Just a bare piece of land. What is it worth? It kind of reminds us of an auction with only one eligible bidder, the U.S. Government.

We were paid $80 per acre. I understand that the value of the land on White Sands Missile Range has run all the way from $37 per acre up to $800 per acre, according to a recent commission ruling. Also, a piece of land near ours was recently valued by the commission at $633 per acre, and ours had far better potential than theirs. I know of two neighbors side by side. One's land was valued at $37 per acre and the other's at $250 per acre.

Senator BINGAMAN. Could I ask you a question, Mr. Oliver? The $80 an acre that you were paid, was that a figure set by the Corps?

Mr. OLIVER. If I recall, and I turned in documentation to this, the commission ruled that $50 an acre was a fair value, but they raised that to $80 an acre on the testimony and everything like that, but they actually—could I emphasize something on this?

Senator BINGAMAN. Sure.

Mr. OLIVER. Three times, three times appraisers came to our ranch representing the Corps of Engineers. The first one was a fellow from El Paso, Tex., and he came to me and he said they have sent me here to appraise your property. And he said, will you take me out and show it to me and I showed it to him and I said yes.

So I took him out there and on the way out there, he said I have a contract with the U.S. Government to appraise five ranches and he said I have appraised three. I have turned in the appraisals and he said they have already told me not to go ahead and appraise these other two, because they are not going to use my appraisals; they are too high.

The second one came along. The third one happened to be from Denver, Colo. He came along and they used his appraisal. They did not use anybody's from our country.

Senator DOMENICI. When was that?

Mr. OLIVER. It was right after 1970, sir. I do not recall.

Senator DOMENICI. This commission that you referred to on page 5 that the judge appointed, how was that structured? Who was on it?

Mr. OLIVER. I do not recall, but in the documentation that I turned in, we listed the names of people. But the bad part about this, sir, is every time they appointed a commission, they gave him a set of rules and regulations that they had to go by and when they went by those, there was no way that anything fair could come out of it. They had to stick by these rules and regulations.

If I can also say what they paid us back in 1975 was under one commission. What they were giving to these people in 1983, after the GAO hearings, was far different. Some of those were up to $633 per acre and the other one was as high as $800 per acre, $250 per acre. I never heard of anything like that in the olden days, back in the seventies.

Sir, you know our country, do you not? You know what we call Sewer Lake is right south of Hollowman Base, which is Hollowman Sewer?

Senator DOMENICI. Yes.

Mr. OLIVER. That is the piece of property that is valued at $633 an acre for home sites. And you know that we all call that lake stinky because it smells so bad that you can't hardly get your breath as you go by. And it was appraised for home sites and valued at $633 an acre.

In 1982, the Commissioner of Public Lands canceled our leases on State land within White Sands Missile Range. The reason given was we no longer owned private land and so it no longer constituted a ranch unit and they could no longer continue issuing grazing leases. They had taken the State leased land with no compensation whatsoever.

We feel that once these lands are incorporated into a ranch unit they should not be separated, especially for the purpose of destroying the value of a ranch unit. Section 315(q) of the Taylor Grazing Act was passed for the purpose of giving fair and reasonable compensation for losses suffered in losing grazing privileges on these lands.

If they were going to take all lands within White Sands Missile Range, why did they break these lands up into separate categories instead of paying these ranchers for their total ranch unit? This action sets a dangerous precedent. The Government cancels your BLM permit, buys your deeded land and improvements, and the State will cancel your State leases because you no longer have a ranch unit. If what has happened on White Sands Missile Range is right, there is not a rancher in the United States who cannot be swallowed up just like we were in a matter of weeks.

After 35 years of battle with the U.S. Government, I wonder if it would not have been better sometimes if we would have bought a ranch in Mexico. Everything was done in the name of national defense. Every negotiation was done under the threat of condemnation. I do not think they were bargaining in good faith. I do not think they were trying to find a fair and reasonable compensation for our losses. I feel the Corps of Engineers and the courts have been allowed to operate under two sets of rules.

One, the method they used to purchase the McGregor Range, where they gave these people cash settlements, enabling these people to buy other ranches and continue their ranching operations.

The other, where the people have been mistreated, misled, condemned, never been able to establish anything permanent, never knowing what action was next.

After hearing the testimony presented here today, I am sure you will agree that there has been a great injustice done. I urge your support of Congressman Skeen's bill providing a reasonable solution to this situation.

[Attachments to the statement of Mr. Oliver follows:)

WHITE SANDS RANCH

INTRODUCTION

In the following synopsis we will show how the U. S. Department of Defense, the U. S. Corps of Engineers and the courts have taken advantage of both their superior bargaining power and judicial decisions and our patriotic devotion to America to take our land and chattels without just or equitable compensation for public use by the White Sands Missile Range (WSMR). Most of the ranch lands had been operated and served as the livelihood for some families for many generations in southern New Mexico.

Please understand that the purpose of the following account is not only to report one rancher's hardship as a result of dealing with the above government agencies and courts, nor is it a mere product of sadness or regret, although we can not help but feel both. More importantly, this will serve as a documentation of the grossly unconscionable and oppressive governmental tactics and manipulations to which we and other ranchers have been subjected over a period of 40 years, resulting in (1) our ranch unit being broken up, (2) our ranching livelihoods being disrupted or terminated, (3) our receiving only a token of monetary compensation, which prohibited our purchase of other ranches of comparable value.

We also prove that during the same time period of negotiations and taking of our ranch lands the U. S. Government (hereafter referred to as the Government) bought ranches which make up McGregor Range (joining WSMR) as ranch units and paid compensation adequate for the ranchers to buy other ranches.

We firmly believe that the tactics of deception, economic strangulation and "divide and conquer" detailed on the following pages, which were used in conjunction with patriotic appeals for national defense, are inconsistent with the basic moral principles upon which this country was founded. These wrongs should be rectified.

Moreover, we believe that if such tactics by agencies of the Government are left unrecognized and unchecked by congressional scrutiny the result can only be negative, long-term effects on our Government's reputation for fairness. This would, in turn, affect our Government's efficiency in promoting public goals which require the assistance and cooperation of its citizens.

AFFIDAVITS AND DOCUMENTS ARE AVAILABLE TO SUPPORT THE FACTUAL DATA INCLUDED HEREIN, AND MAY BE PROVIDED UPON REQUEST.

THE FACTS OF THE MATTER

The White Sands Ranch is located in the Tularosa Basin of Southern New Mexico, a dry and sparsely populated area of our country with a beauty and value all its own. G. B. Oliver and his wife, Audra James Oliver, bought this ranch with their life savings in 1946 from Hugh Longwell. Their children also put all the earnings they had saved into this enterprise, it being a family endeavor where all members worked both on the ranch and in other places to contribute to stocking and paying for the ranch. When purchased by the Olivers the ranch was a _total ranching unit_ consisting of deeded land, State land, and Federal public domain land under the provisions of the Taylor Grazing Act of 1934. In 1970 Mr. Oliver made the ranch a joint ownership between himself and Mrs. Oliver and their four children: Maude Oliver Rathgeber (daughter), Henry J. Oliver (son), G. B. Oliver, Jr. (son), and Martha Oliver Sayles (daughter). Later, in 1974, after G. B. Oliver's death, the ranch became White Sands Ranch, Inc., and upon Mrs. Oliver's death in 1976 became jointly owned by the four above-mentioned children and their spouses.

Negotiations between the U. S. Corps of Engineers (representing the U. S. Department of Defense for White Sands Missile Range) and the Oliver's White Sands Ranch began in

1946 and have continued to this present time. All of the four Oliver children were living and working on the ranch at the time negotiations began, and at least one or more have been involved with the negotiation procedures since 1946.

White Sands Ranch lies along the eastern edge of White Sands Missile Range (WSMR), south of Holloman Air Force Base in southern New Mexico. The eastern boundary of WSMR divides the ranch in half approximately down the middle, north and south. The portion taken by WSMR was the western half of the ranch, consisting of approximately 32 sections of land. These 32 sections consist of one section of deeded or fee land, three sections of State leased land and twenty-eight sections of public domain land controlled by the Department of the Interior (Bureau of Land Management). The headquarters for the ranch is located just about mid-section of the ranch and through negotiations was left out of WSMR territory. The total facilities at the headquarters were designed to take care of the total ranch unit. This included many corrals, water storage and water facilities, chutes, small feedlots, barn, living quarters for the ranch family, additional living quarters for anyone working for the ranch, and other essential facilities. These facilities were designed and built in the middle part of the ranch to facilitate the total ranch. At the taking of the ranch portion by WSMR, the ranch was cut in two--down the middle, leaving more facilities than necessary for the remaining portion of the ranch.

On the portion of the ranch taken by WSMR, the Corps of Engineers documented in detail in the original lease contract all of the many ranch improvements including fencing, additional wells, waterings, a small ranch house and tanks. The carrying capacity of the portion taken by WSMR was approximately 208 cow units. (Detailed maps, typographical information, lists of improvements, etc. are not included with this synopsis but are available.)

From 1946 through June 1950 the western half of our ranch was used on a co-use basis by WSMR. Under contract we evacuated the premises the day missiles were to be fired. We evacuated the ranch headquarters and personnel from the small ranch house on that portion within WSMR.

In 1949 WSMR wanted exclusive use of the ranch portion within their boundary, with the Corps of Engineers negotiating with us for an exclusive use lease. The lease they wanted was to be for 20 years (July 1, 1950 through June 30, 1970), a year-by-year lease to continue at the option of the Government.

From the beginning of the Government's taking ranch lands in the Tularosa Basin in the early 1940's, the ranchers had been told it was for a national emergency created by World War II. Because of the distance between ranches and the lack of communications in the more primitive areas, ranchers were not in touch with one another regarding the proceedings and promises that Governmental officials were using in their dealings with the landholders. In time the ranchers discovered they were being dealt with on a one-to-one basis by Government representatives with separate and inconsistent offers being made to individual ranchers. At this point ranchers correctly perceived a serious threat to their livelihoods and held several meetings, finally agreeing on March 26, 1949 to form a committee of fellow ranchers to represent all the ranchers in their dealings. Seeing their opportunity, the Government representatives immediately made highly favorable "deals" with the individual members of the ranchers' committee, paying them well for their individual leases. Because of these underhanded deals, the ranchers' committee folded and each rancher was then left to fend for himself again.

The negotiations between White Sands Ranch and the Government did not proceed smoothly. Government representatives involved held a threat of condemnation over us throughout the negotiations. We were not at all satisfied by compensation offered by the Government. These negotiations continued for almost two years, always under threat of condemnation by the Government. A contract was finally negotiated and signed on April 30, 1951 retroactive to July 1, 1950 through June 30, 1970. The negative impact of this was tremendous upon our ranch because it split the ranch down the middle, breaking up a total ranch unit that had been working for years. As mentioned before, the headquarters facilities were all designed for the total carrying capacity of the ranch, not just the portion of the ranch left outside WSMR.

This land negotiated for by the Government consisted of public domain (controlled by the Bureau of Land Management - BLM), State leased land and deeded land. This was a ranch unit in the beginning, and the negotiations were for the ranch unit. The original contract was negotiated for the exclusive use of these lands and the permits on them. The negotiators (Corps of Engineers and Mr. Oliver) never intended for the ranch unit to be divided up into the different type lands, i.e., public domain, State leased and deeded.

The improvements were inventoried in detail and the contract called for "restoration of improvements" or "payment in lieu of restoration of these improvements." The negotiators for the

Government at this time assured us that the lands would be returned to us at the end of twenty years and the ranch unit would be restored.

At that time we were not satisfied with the compensation negotiated but, like many other ranchers on WSMR, we were continually told that this lease was vitally important to the national security of the United States. The compensation which we received from mid-1950 to mid-1970 under terms of the lease was nothing like we could have made had we been able to continue a cattle operation on this portion of our ranch.

We did, on April 30, 1951, sign the lease agreement with the full understanding that at the end of twenty years we would get our land back. The improvements would be put back in their original condition or we would be paid in "lieu of restoration" of these improvements. There was no indication whatsoever from the BLM personnel, the State Land Office or the Government negotiators that the ranch unit would be broken up during the time of the contract.

All the ranchers on WSMR had looked forward to the Government's closing of the leases on their grazing lands. In early 1970 the ranchers were called to a meeting at WSMR held in a theater on the military post. At this meeting military personnel gave talks about the importance of the military range to the overall national security of the United States. Corps of Engineers personnel from Albuquerque spoke about the fact that the Government was going to continue the lease on these lands so they could be used for military purposes. The ranchers, including ourselves, assumed the Government would re-negotiate in good faith for continued use of these lands. When asked at this meeting about compensation for the extended lease, we were told the compensation would be somewhat less than it had been for the past twenty years. When we asked the reason for this, we were told the public domain lands had been withdrawn from public use. Therefore, the Government would be negotiating a lease for state land and deeded land which belonged to the ranching units.

There is no doubt the Government had been working behind the backs of the ranchers to have the public domain land withdrawn from public use. This was done so the Government could break up the ranch units and thereby be able to obtain or re-lease the state land and the deeded land at a much lower price. By comparison, when the Government took the McGregor Range in southern New Mexico in the mid-1950's, they bought those ranches as ranch units consisting of public domain, State leased, and deeded lands. These were bought and compensated at fair market value, allowing most of the ranchers on McGregor Range to buy comparable ranches elsewhere and set themselves up again in the ranching business with no apparent loss of revenue. However, in negotiating for ranches on WSMR the same Government officials used a different set of rules from the ones they followed in negotiating for the ranches on McGregor Range. This, although both of these acquisitions were going on in southern New Mexico during the same period of time.

At the 1970 WSMR meeting the ranchers asked about compensation for the loss of the public domain BLM lands under paragraph 315Q of the Taylor Grazing Act in effect at that time. They were told that lease compensation over the past 20 years was sufficient compensation for the loss of their BLM lands. This was contrary to the lease we had signed in 1950 which was negotiated and the compensation set on a ranch unit basis, not on individual lands such as public domain, State land, and deeded land. When we asked about the restoration of improvements, we were told we would be "paid in lieu of restoration of improvements" but each ranch would have to enter negotiations separately for such payments.

In checking with our lawyers later and after much research by them, we were told, "It is the opinion of the United States Government that the United States Government owns all property in the United States if they want it. We (the property owners) have title to it only when it is not needed by the Department of Defense." This is completely unfair in time of peace (1970). The Government fully used the old adage of "divide and conquer." They had not only divided the ranchers so they could conquer each individually but had also divided the assets of the rancher in order to conquer the individual ranches. There was no doubt the Government had accomplished what it had set out to do. It had broken up the ranch units by entering into separate negotiations for lease for state and deeded lands. The public domain land had been withdrawn. We had no choice but to go to court and try to receive compensation for "payment in lieu of restoration of improvements" as stated in the original contract.

All these tactics by Government officials are contrary to the very essence and purpose of the Taylor Grazing Act of 1934 which was passed to stabilize the livestock industry depending upon Federal lands in the western United States. The Department of Defense had this Act amended by Congress in 1942 and 1948 so they could break up ranch units to facilitate the taking of ranges such as WSMR.

The point is, that upon the taking of McGregor Range in the 1950's the Government paid cash for total ranch units. Those ranchers, as mentioned before, were then able to buy comparable ranches and re-establish themselves in the ranching business. In our case, we were paid a lease for twenty years that was renewable annually or subject to cancellation at 90 days notice - all at their (the Government's) option. This lease paid us only 10-20 per cent of what we could have made in ranching for that same period of time on that land. At the end of the 20-year lease, they broke up the ranch unit, as said before, contrary to the very idea of the Taylor Grazing Act and said the lease payment was satisfactory compensation for the loss of the grazing permit.

In the negotiations for the 1970-1980 lease we could not negotiate what we felt was just compensation for the continued lease of our State and deeded lands. The Government then entered civil action against us for condemnation to lease, using the courts to their benefit. This condemnation was instituted by the Government on June 8, 1970, and is well documented through the U. S. District Court. In essence, the suit came before Judge Vearle Payne of the U. S. District Court in Albuquerque. Rather than going to trial for each individual case, we agreed it would be better to solve the issue with a hearing before a commission panel appointed by Judge Payne. The commission appointed by Judge Payne consisted of William W. Bivins, an attorney; Dr. Roger Corbett, president of New Mexico State University; a ranching economics expert; and M. T. Everheart, a rancher. The commission hearings were held in Las Cruces.

For the lands being taken, the Government had been offering us a rental fee of approximately .10/A/year. The commission's recommendation to the District Court in Albuquerque was that the Government pay $1.50/A/year. The District Court approved the recommendation of $1.50/A/year and advised the Government to pay the ranchers. This upset the Government (Corps of Engineers) who threatened to take the issue to the Court of Appeals and on to the U. S. Supreme Court if necessary. After all this we were the losers, with our compensation set at .74/A/year on the deeded land and .49/A/year on the State leased lands. Note that a separate figure was set for State and deeded lands even though these lands constitute a ranch unit. The Government did not intend to consider it a ranch unit and therefore set the fee compensation for the deeded and State lands separately. Their purpose was that in the future they intended to condemn and take the deeded lands, and then in some way make a deal with the State of New Mexico to cancel State leases.

We received $3,000/year lease from the Government from 1950 through 1970. Under the new law, beginning in 1970 until the Government condemned and took our deeded land in 1975, we received $1,425.00/year lease. This was only 50 per cent of the original compensation for the same lands. The fair market value for this ranch unit had tripled in this period of time. These figures show the unfair practices of the Government negotiators.

In 1970 when the Government started negotiations to close out the 1950-1970 contract, the only thing they needed was to restore improvements on this property to their original condition or pay "in lieu of restoration." However, the Government did not intend to restore the improvements to their original condition but wanted to pay "in lieu of restoration of these improvements." We worked with the Government to establish a satisfactory fee for "payment in lieu of restoration."

These improvements were well documented as to description and condition at the beginning of the original contract in 1950. We were allowed to enter WSMR, survey the improvements and come up with what we thought was a reasonable compensation. We estimated the restoration of improvements would cost in the vicinity of $32,000.00. The Government officials came back to us wanting to know the approximate replacement costs. We estimated the replacement costs to be $55,753.00. They then offered $6,375.00 for "payment in lieu of restoration." This is typical of what the Government had done in every case. There was no doubt the "payment in lieu of restoration" should have been approximately $32,000.00. After hearing our lawyers negotiate with the Government, they finally agreed to pay $30,947.00 cash settlement "in lieu of restoration of improvements." We agreed to accept this payment as settlement in "lieu of restoration" to close out the original contract.

When we received a final judgment from the Government in June 1972, the agreement we were asked to sign stated that it was full payment for all rights and titles to the improvements. The Government had once again used underhanded tactics to obtain property. We had negotiated in good faith and had come to a satisfactory agreement for "payment in lieu of restoration." If we had negotiated for "sale" of the improvements, we would have negotiated a much higher figure. We discussed this with our lawyers and were advised we would either have to accept what the Government offered or enter suit against the Government. Our lawyer fees at this time had already been exorbitant and we felt it was not economically feasible to enter suit. We had no choice but to accept the Government's offer. Never did we want to or intend to sell these improvements. It was either take what they offered or go through additional court battles.

Throughout all of these procedures, it should be noted that individual ranchers had to pay their own lawyers' fees whereas Government negotiators always had access to legal services provided by the Government. We estimate that in our individual case our legal fees for trying to gain just compensation during this controversy cost us approximately 15 per cent of what we had received from our leases.

The Government initiated action to purchase the State and deeded lands in the early part of 1970. On April 25, 1974, they entered into negotiations with our lawyers for just compensation for these lands, telling our lawyers in the very beginning that if no agreement could be reached they would enter condemnation procedures. We knew from the start it would come down to condemnation, as the Government did not intend to pay fair market value. It must be remembered that the Government had divided these lands and broken up the _ranch units_. It must also be remembered that ranches are bought and sold as _ranch units_ at fair market value, stabilized by the Taylor Grazing Act. If we ever wanted to dispose of our ranch in any way, it would be disposed of as a ranch unit; it would never be divided as public domain, State lands, deeded lands and improvements.

In 1975 the Government began proceedings to purchase our deeded land in WSMR. This consisted of one Section described as:

> All of Section 25, Township 18S, Range 7E, NMPM, Otero County, New Mexico, containing an area of 640 acres more or less.

The offer they made us had the following statement: "This amount is based on and is not less than the valuation developed by an approved appraiser of your client's property. This appraisal was made by a qualified real estate appraiser using standard real property appraisal techniques and taking into consideration the value of the land as well as its location and its highest and best use." Again the Government in its policy of "divide and conquer" was now in the process of taking our deeded land within WSMR. Several appraisers hired by the Government came to talk to us about the appraisal of this piece of land. Each of them told us the Government set the stipulations by which they must appraise this land. Several appraisers were used by the Government before one was found with an appraisal that satisfied their desires. One of the Government stipulations was that our section was not to be considered as part of a ranch unit. No improvements were to be taken into consideration because the Government had "purchased" them. It was to be appraised as an isolated parcel of land with no public access.

We hired qualified appraisers to appraise this piece of land and they appraised it at four to five times more than the Government's appraisals. We could not accept the Government's offer. Court compensation was set at twice what the Government offered, showing the Government did not appraise and make their offer in good faith. The Government had now accomplished everything they had set out to do; i.e., the taking of our ranch with a minimum of compensation to us. The only thing left to be done was the taking of the State land leases with no compensation to us. They had been trying since 1970 to obtain State leased lands on WSMR without compensation to the ranchers. A lease was paid on these lands from 1970-1980. In 1980 the condemnation to lease had run out. The Government then negotiated a lease to run from 1980-1990 which continued in effect until September 30, 1982.

On July 12, 1982, we received a letter from the Commissioner of Public Lands, State of New Mexico, stating that as of September 30, 1982, we would not be allowed to lease our lands within the White Sands Missile Range. We had leased these lands for decades. The BLM lands had been withdrawn from public use, the deeded lands had been condemned and taken by the U. S. Government, and the State lands no longer constituted a ranch unit. Therefore, they would not re-lease these lands to us. This was what the Government had been trying to do for 30-40 years. They had finally succeeded in breaking up the ranch unit and by "divide and conquer" techniques had finally taken all the lands that we had in WSMR. We were not compensated in any way for the loss of our State leases which are, by law, considered a property right. The litigation is still pending on receiving compensation for these leases.

On July 30, 1982, we received a letter and paperwork from the Department of the Army, Corps of Engineers, Albuquerque, that "notice is hereby given that the United States of America exercises its rights reserved in the lease instrument and will quit, relinquish, and give up the premises on the 30th day of September 1982." They did not state any reason for this. They did not even refer to the letter from the Commissioner of Public Lands. Along with this letter were forms they wanted us to sign, releasing the Government of any responsibility on these State leases. As stated before, litigation is still pending in the courts to receive compensation for these lands.

We have received in total compensation for the ranch unit taken by WSMR approximately 15 per cent of what this ranch unit was worth at fair market value. We have received this in dribbles over many years and therefore could in no way reinvest it in like property to compensate for our loss.

IN SUMMARY

The Government has had in mind from the beginning of their use of WSMR to take these lands from the ranchers. We leased to the Government, starting in the 1940's, in good faith - to help provide national security for the United States. The

Government, by using underhanded tactics and relying heavily on the courts, broke up our ranch units. They paid only token compensation to us. While doing this on WSMR, they purchased the ranches that make up McGregor Range (adjoining WSMR) as ranch units. These ranchers were paid fair market value. They bought other comparable ranches to continue their ranching operation. We demand that the Government pay us just and equitable compensation. This should be based on animal unit carrying capacity at fair market value.

IN CONCLUSION

We only hope the events documented in this writing bring to the attention of people in our Government who are in positions of responsibility the devestation that can be and has been wrought upon ordinary citizens who unwittingly find themselves in the path of the Government machine. A machine devoid of emotion or sympathy for those whom it crushes. What should be realized is that although these people are not wealthy or powerful and are often anonymous they are nevertheless very real and, in total, comprise the backbone of this country. This backbone, as the conduit of our nation's vitality, not only deserves better treatment from our nation's nerve center but, in the interest of promoting and maintaining our nation's composite strength and health, demands it.

H.B. Oliver Jr. for
White Sands Ranch Inc.

White Sands Ranch, Inc.
Response to GAO "FACT SHEET RELATING TO THE ACQUISITION OF PROPERTIES FOR WHITE SANDS MISSILE RANGE AND FOR THE McGREGOR RANGE"

Since we are not in possession of the GAO report mentioned in paragraph two of this report (GAO/PLRD-83-31), we will respond only to this "fact sheet".

Our general feeling as we read this report is that it might as well have been written by the Corps of Engineers. GAO does not show the "facts" but uses information provided by the Corps. This information is all biased in favor of the Government. We have no doubt that the figures used are correct, but they have been manipulated to make it appear that the ranchers involved in the taking of WSMR have been paid much more than those involved in the taking of the McGregor Range. You will notice that the GAO uses the term "According to the Corps" in their report. They also use the term "According to the Corps of Engineers records" and "Corps officials told us". Never in the report do they refer to any direct interviews made with the ranchers nor to any of the information presented by the ranchers. On page 2 they mention that the ranchers "contend" only that they did not get their money up front. The GAO report does not state the ranchers' contention with the Government in the matter; rather it is in defense of the Corps of Engineers.

On page 1 of the GAO report they state that "it would not be appropriate for the GAO to evaluate and reach conclusions," yet they go ahead and present "facts" that substantiate the Corps actions and do not present the "facts" that we, the ranchers, submitted to support our claims. They use the term "prejudice the Government's court cases". By use of this term they are admitting that, in their opinion, the Government is in error in its actions. If they were to give their true evaluation, the Government's court case would be injured or damaged (Webster's definition of the word prejudice). This report (GAO/PLRD-83-31) has not been made available to us at this time.

The GAO did not address or attempt to address the main issue. We have received only partial compensation for our ranch units. The Government has attempted and managed to devaluate the ranch units to a fraction of their worth. They divided the unit into different segments and then proceeded to take each of them separately. By this method they have divided the whole into small parts, diminishing the true value of the ranch units. The GAO report shows on page 1 that the land taken in the beginning - both McGregor and WSMR - was ranch units. They point out this fact, as well as showing the types of land involved. On page 7 of the same report, the McDonald Ranch was considered by the Government (Corps of Engineers) as a ranch unit. The original appraisal was made on a ranch unit basis. The value was determined using a cow year long (CYL) carrying capacity. All of the other ranches on WSMR were evaluated using the same method.

The ranches on McGregor Range were evaluated by the same method. Page 10 shows that all ranches were evaluated the same way. These ranchers were paid for their ranches on this basis. The ranches were not divided into the different classifications of lands and then purchased either by "voluntary agreements or through condemnation." Note on page 10 that "carrying capacity was based on the cow year long (CYL) capacity of the entire tract." Note also "A portion of the animal unit value includes the value of the improvements." Note also "Total value obtained by multiplying the carrying capacity (CYL) by the animal unit." These prices were "fair market value" at that time. This was the method used to compensate the ranchers for the taking of their ranches on the McGregor Range.

The GAO report explains the taking of the land from the ranchers for WSMR from page 3 to page 6. The public domain was "withdrawn." The private land and state-leased land were separated. It is explained in terms that make it appear as though the ranchers were well compensated for their ranches. This is far from the truth.

We must disagree with the GAO statement listed on page 2 of this report that "sketchy records are available." We are positive that all records of these two acquisitions are available in the Government's files. We have called the Government offices at WSMR and been able to get anything relating to our dealings with the Government as far back as we have wanted them. We have called there within the last couple of months and received, at once, copies of contracts between us and the Government that existed back into the 1940's and have not been in effect since that time. It appears that the GAO did not put forth the effort to try and obtain these records. Either they were snowed by the Corps of Engineers, or the records were intentionally withheld from them.

Page 2 shows that, in the beginning, CYL carrying capacity was the basic consideration used in the determination of the value of the ranch unit. We must totally disagree with the GAO statement on page 2 that "The difference in the acquisition procedures was not in the timing of the payments." Please note on page 10 of the GAO report that the value of the ranches on the McGregor Range was calculated on a CYL carrying capacity. The animal unit value was multiplied by the CYL carrying capacity. The total value of the ranch was determined and then acquisition settlement payment determined and negotiated. None of the figures listed here add in the lease payments as part of the purchase price. The land was not parceled out and negotiated according to separate classifications.

In a few instances on McGregor the Government had to go into condemnation, but even then the condemnation was for the ranch unit based on a CYL carrying capacity. We would like to emphasize once again that the lease payments were not considered as part of the purchase price.

The method of acquisition of the lands on WSMR was to lease for 30-40 years. They then broke the ranch units into lands of different classifications (Federal, private and state lease). After this, they claimed that the lease payments over the period of years was just compensation for the federal lands. They then set about to purchase the private lands for the least possible price. They entered into condemnation. This was necessary because they would not negotiate in good faith with us. In court they claimed these were isolated parcels of land with no access. This was true to the extent they were surrounded by the missile range. The Government has tried to get the state lease lands with no compensation to us. This is still in litigation. There is no comparison between the methods used by the Government in the taking of the lands on the two missile ranges.

On page 2 of the GAO report the statements made indicate we have been paid for our ranch units over a period of time. This is not true. We had a year-by-year lease with the Government. They had a 20-year lease with us renewable each year at their option. We could not borrow against the ranch unit involved. We could not plan more than one year in advance, as the Government could have released the land back to us at the end of any given year. (See Exhibit #2, "Agreement for Use and Occupancy of Land," 1 August 1945 to 30 June 1950, paragraphs 7 and 8; and also Exhibit #3, "Lease and Suspension Agreement," 1 July 1950 to 30 June 1970, paragraph 4.) Notice also in these lease agreements that there is a final termination clause. The lease was in no case to go beyond the termination date.

In paragraph 2 of page 2 of the GAO report they make the statement "...it has been alleged that ranchers displaced by the McGregor Range received more equitable compensation including resettlement payments." They then open the next paragraph comparing the per acre cost of acquiring McGregor Range with that of WSMR. This is comparing apples with oranges.

First, let's address the resettlements. As the GAO report indicates, some of the ranchers on the McGregor Range did receive resettlement payments. Only the Government records would show how many and the extent of these payments. We, on the WSMR acquisition, did not receive any resettlement payments.

Second, we would like to discuss the GAO statement that "the average costs for the 1.9 million acres at White Sands was about $12 an acre, and for the 720,000 acres at the McGregor Range the average cost was about $4.74 an acre." The costs per acre for the acquisitions of the property on these two ranges is stated to confuse and mislead. It is used to indicate that the ranchers displaced by WSMR received more compensation than those displaced by McGregor Range. We would like to point out the following:

1. The cost of the land for the two ranges should never have been compared on a per acre basis. It should have been compared on a CYL carrying capacity basis. This is the way the land on the McGregor Range was purchased and the way the leases on WSMR were calculated in the beginning. Since the Corps and the GAO used these figures, we will use the same figures to show the discrepancy of the comparison.

2. The $4.74 per acre figure used for the cost of the land on McGregor is almost entirely the cost of the purchase of the land. Very little of it was lease money. The cost was also mid-1950 prices for the animal units purchased. This was because "the Government recognized a permanent need for the McGregor Range shortly after it took possession of the land" (lines 4,5, page 3 of the GAO report). With this foreknowledge they were able to buy the ranch units at "fair market value" at mid-1950 prices. This figure was approximately $230 per cow unit (the average of the figures listed on page 10 of the GAO report.) These ranchers were able to go out and purchase comparable ranches at that time with the money.

3. The $12 per acre figure used for the cost of the land for WSMR includes 30 to 40 years of lease money paid out to the ranchers. It also includes payment "in lieu of restoration" of the improvements. The Government was obligated to do this under the terms of the leases they had with the ranchers. (See Exhibit 3, paragraph 10.) Note page 6 of the GAO report. Under total payments they add the lease money paid (line 23), the payments in lieu of restoration (line 24) and the amount paid for the private land to come up with the total of $24,094,806.13 (line 26). They then divide this total by 1.9 million acres to get $12 per acre. The lease monies and the payment in lieu of restoration monies are costs to the Government for the lands but should never be considered or hinted to as the purchase price paid the ranchers. These monies were paid to the ranchers in fulfillment of a year-by-year contract. The Government could have cancelled at any time or purchased, as they did the ranch units on McGregor Range. Line 25 on this page is the only monies that have been paid to us for our ranch units. This comes to about $3 per acre fo the land taken. And this is in the 1970's and 1980

as compared with the $4.74 paid to the McGregor ranchers in the 1950's. If we compare animal unit values in the mid-1970's and 1980 and land values for the same period, the Government should have paid us approximately $30 per acre NOT inclusive of the lease payments and payments in lieu of restoration. This would have been equivalent to the amount paid the ranchers displaced by McGregor Range.

4. The fault and resulting high cost to the Government lies in the ineptness of the Government personnel (Corps of Engineers and WSMR Chiefs). On page 3 of the GAO report it states that "when the Government first took possession of WSMR in 1942, a permanent need was not envisioned but with the passage of time one developed." We are sure that by the mid-1950's the Government could "envision" a permanent need for the WSMR Range. Hundreds of millions of dollars had been spent for permanent instrumentation on the range. It was billed and advertised as the most instrumented range in the world. The Government could have bought these ranch units at that time for the same cost per animal unit they paid for the units on the McGregor Range. However, they did not do anything about it as they had a 20-year lease which did not expire until 1970. And in 1970 they did not want to purchase these ranch units at "fair market value." Thus they had to devise a way by which they could cover up their ineptness. Nevertheless, it does not seem fair that the ranchers displaced by WSMR should be punished monetarily because of Government incompetance.

On page 3 the GAO states that "over the years, the Federal Government has withdrawn the public domain from public use." It was not withdrawn but allowed to expire by their own time limit. (See Exhibit 3, paragraph 3.)

The lease and suspension agreement we signed also stated that "the Government would not prejudize our right to renewal when the lands are returned to the Federal Grazing Administration." We have never received any notice from the Grazing Administration that these lands have been withdrawn from public use. In 1970 we were called to a meeting at the WSMR Base Theatre. The recordings from this meeting certainly must have been available to the GAO if they had desired to look into this in a thorough manner. At this meeting we were told by U.S. Army personnel that they had withdrawn the public lands. We were also told they were going to continue to lease the privately owned lands and our state leased lands, and that they would enter into private negotiations for each separately. They said it would be at a lesser rate than the one they had been paying. This approach was totally different from the one under which our existing leases were operating. We were to receive less lease than we had in 1946 for the same ranch unit. In addition, the withdrawal of the public land was a violation of the lease agreement we had with them. (See Exhibit 3, paragraph 9.)

We would now like to comment upon the section entitled Compensation for private property on page 5 of the GAO report. The Government condemned our private property and lease-held lands under 10-year leases. Each property had to stand alone. It was not to be considered by the courts as a ranch unit. This was totally different from the takeover in 1946 and again in 1950. We negotiated those leases on a CYL carrying capacity basis. This was the same way the leases and purchase on McGregor were done. In 1974, however, the Government began to "buy" the private land, continuing to lease the state land but ignoring the contributing value of the intermingled Federal land which makes up the ranch unit. In so doing they completely destroyed the ranch unit.

On page 6 of the GAO report, under the section Total payments, the Corps of Engineers tries to make it appear that the lands were acquired on a lease purchase agreement. This is absolutely not the case. The lease on which the Government paid during the approximately 35 years was not to be considered as part of the purchase price, no matter how long the lease ran or how much was paid. It appears the Corps sold the GAO a bill of goods! The payment in lieu of restoration of the improvements was to close out the old lease contract and was also not to be applied against any purchase price. It would seem the Corps sold this bill of goods to the GAO as well.

The "facts" as listed on page 7 of the GAO report are totally misleading. Note that the appraisals made by the Corps on the McDonald ranch in 1941 and again in 1950 were made on a CYL carrying capacity basis. We do not question the figures used here by the GAO as provided by the Corps. What we would like to point out is that the monies paid to the McDonalds were mostly for the annual rentals of this ranching unit. The McDonalds could have netted far more profit if they had been allowed to own and operate their ranch over those years. If they had sold to WSMR many years ago they could have continued in the ranching business. In other words, if the Government had bought this ranch in the 1950's, as they did McGregor Range, they would not have needed to pay so much money over the years and the McDonalds could have purchased a comparable ranch, as did the ranchers displaced by the McGregor Range. The $11.80 an acre listed on page 7, line 23 of the GAO report, also includes payment in lieu of restoration which should never have been considered as any part of the acquisition amount. The actual figure for the cost of acquisition of these lands should be the $35,200 (listed on page 8, lines 6-7) divided by 21,518 acres (page 7, line 15) which calculates out to $1.64 per acre.

Page 8 of the GAO report shows that $35,200 was deposited in 1980 "with declaration of taking for privately owned land" of the McDonalds. This is the ridiculously low amount the Government is attempting to pay the McDonalds for a ranching unit with a CYL carrying capacity of 370 animal units. Of course this is still in litigation, but if it is decided as many of the others have been decided the McDonalds will get very little more than this. This comes to $95 per animal unit, which is not even 1930's prices for ranch units. It should be in the vicinity of $2000 per animal unit, which means the amount offered by the Government is about five per cent (5%) of the value of this ranching unit. This is an excellent example of what the Corps of Engineers is trying to do to the ranchers displaced by WSMR. If the McDonalds and the rest of the ranchers were to be paid $2000 for the animal units displaced by WSMR they would be in the same condition as were the McGregor ranchers in the 1950's, and they could buy comparable ranches.

The McDonald situation is the same for every rancher displaced by WSMR. We will not go into our peculiar situation here as we are only attempting to show the folly of the GAO report and use their figures to make our point. Our particular situation is similar and will be described under separate cover.

See our Summary on the following page.

IN SUMMARY:

As we pointed out in the beginning, it appears this GAO report might as well have been written by the Corps of Engineers. It is in complete support of the Corps position. The phrases used throughout are "According to the Corps," "according to the Corps records" and "Corps officials told us." The report never indicates that the ranchers have contributed any information or evidence. They never refer to any interviews with the ranchers. They never show any information or use any data submitted by the ranchers. They never address the main issue that the ranchers raise. We were enthusiastic about the GAO getting involved, believing we would see a thorough investigation and a solution to the problem - either for or against our position. We saw neither. Instead, we are aware of only another half-hearted coverup by the Government. All ranchers involved in the displacement by WSMR have been hassled by the Government for 40 years. And the end is not in sight yet, as most ranchers are still in litigation over one aspect or another. In short, we are totally disappointed by the lack of effort put forth by the GAO.

OCCUPYING AGENCY

Certified A True Copy:
Leonard M. Cowley
LEONARD M. COWLEY, Lt Col, C of E

W 41-038-eng-4391
PROJECT: WHITE SANDS PROVING GROUNDS, NEW MEX.

TRACT NO: **B-109, B-109-1**

NEGOTIATED CONTRACT

By: /s/ L. M. C.
L.M.C.

AGREEMENT FOR USE AND OCCUPANCY OF LAND

THIS AGREEMENT made and entered into this 1 day of August 1945 by and between Hugh Longwell & Mary Pearl Longwell, whose address is La Luz, New Mexico hereinafter referred to as the Grantor, and the United States of America, hereinafter referred to as the Government. The parties hereto for the consideration hereinafter mentioned covenant and agree as follows:

1. The Grantor hereby grants to the Government the right to enter upon, camp upon, pass over, and to fire explosives and projectiles over upon and across the following described premises for and during the periods to be stated in the notices hereinafter provided for, and further agrees to vacate said premises during the firing periods as hereinafter provided. The premises covered by this Agreement are more particularly described as follows:

17,898.27 acres of land situate in Otero County, New Mexico more particularly described as follows:

Federal Land:

T17S, R8E: That part of Sec. 31, Southeast of U. S. Highway No. 70; T18S, R7E: S½ Sec. 13, that part of the N½ Sec. 14 Southeast of U. S. Highway #70, W½ Sec. 23, all Secs. 24 & 35; T 18 S, R8E: SE½ Sec. 8, N½, SW¼, E½SE¼ & SW¼SE¼ Sec. 17, S½ & N½NE¼ Sec. 18, all secs. 19,20,29,30 & 31; T19S, R7E: All Secs. 1,11,12,13,14,23 & 24; T19S, R8E: All Secs. 5,6,7,8,17,18,19 & 20.

State Land: All of Sec. 2, T19S, R7E.

Patented Land: All Sec. 25, T18S, R7E, NMPM, NW¼SE¼ Sec. 17, T18S., RC

2. The Grantor also agrees that upon receipt of notices to vacate as hereinafter provided, he will evacuate the premises and remove himself, his family, employees, lessees and any other person or persons occupying or using the premises by permission by the Grantor and to cause the same to remain vacant and unoccupied for the period stated in said notices, except for the days upon which the Grantor will be permitted to enter the property for the purpose of watering and feeding livestock.

3. The Government agrees to deliver in person to the Grantor or a member of his immediate family at the address designated in paragraph 10 hereof, notices stating the dates that said premises are to be vacated, and the duration of each period they are to remain unoccupied by the Grantor, members of his family, employees, lessees and other persons occupying or using said premises by permission by the Grantor. Such notices will be delivered by the Commanding Officer, White Sands Proving Grounds or his duly authorized representative at least 10 days prior to the first day of each firing period. It is agreed that no single period for which the Grantor is to vacate the premises shall be longer than 20 days. The notices to be furnished to the Grantor shall contain a schedule of firing days and shall reflect the days during the firing periods on which the Grantor will be permitted, upon approval of the said Commanding Officer, to re-enter the premises for the purpose of watering and feeding livestock thereon. During the firing period the days upon which the Grantor will be permitted to re-enter for such purposes will not be more than two days apart.

4. It is agreed that during the periods that the Grantor shall be required to vacate the premises as herein above provided, he may continue to graze his cattle and livestock on the above described lands and it is understood and agreed that the Government shall only be responsible for damages to the livestock in the event that such damage is caused by the activities or negligence of the Government; and it is further understood and agreed that the Government shall not be required by the Grantor to restore said premises save and except existing buildings, fences, pipes

and windmills which may be damaged as a result of the Government's activities, in which event the premises shall be restored to the same condition in which they existed at the time of the commencement of use by the Government, reasonable and ordinary wear and tear and damages by the elements or circumstances over which the Government has no control, excepted. In the event of any such damage to the Grantor's improvements and livestock, he shall give written notice thereof to the Commanding Officer, White Sands Proving Grounds, at least 15 days after expiration of any firing period, supported by a detailed statement of the conditions of said premises, enumerating the loss and damage alleged and the estimated amount of damage.

5. A the time of execution of this Agreement the Grantor and Government will execute a condition survey report disclosing the type and condition of improvements on said land.

6. The Government shall pay the Grantor in advance for the use of the premises, the sum of Six Hundred-Seventy-Three & 84/100 Dollars for the term beginning 1 August 1945 and ending 30 June 1946, and thereafter at the rate of Seven Hundred-Fifteen & 40/100 Dollars per annum. Payment shall be made by the Finance Officer, U. S. Army, Fort Worth, Texas.

7. This Agreement shall remain in force from year to year without further notice; provided further adequate appropriations are available from year to year for the payment of the annual consideration, and provided further that this Agreement shall in no event extend beyond six months after the date of termination of the unlimited National Emergency as declared by the President of the United States in Proclamation No. 2487 dated May 27, 1941.

8. The Government may terminate this Agreement at any time by giving 30 days notice in writing, and the unearned portion of rental that may have been paid to the Grantor for periods subsequent to the termination date shall be refunded to the Government.

9. The Government shall have the right, during the existence of this

Agreement, to make alterations, attach fixtures, and erect additions, structures, or signs, in or upon the premises described herein, which fixtures, additions, or structures so placed in, upon or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government.

10. Any notice under the terms of this Agreement shall be in writing, signed by a duly authorized representative of the Government and delivered to the Grantor at La Luz, New Mexico.

11. The Grantor warrants that he has not employed any person to solicit or secure this Agreement upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Government the right to annul the Agreement, or, in its descretion, to deduct from the rental the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commissions payable by lessors upon contracts or leases secured or made through bona fide established commercial or selling agencies maintained by the Grantors for the purpose of securing business.

12. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

/s/ W. C. Boring
(Witness)

/s/ Hugh Longwell
(Grantor)

/s/ Mary Pearl Longwell
(Grantor)

UNITED STATES OF AMERICA:

BY: /s/ Leonard M. Cowley
LEONARD M. COWLEY, Lt Col, C of E

The supplies and services to be obtained by this instrument are authorized by, are for the purposes set forth in, and are chargeable to procurement authority No.
2/2/60425 608-3260 P260-10-341-038
the available balance of which is sufficient to cover cost of same.

ENG Form 818 7-3-44

SWKRE
Commanding Officer
White Sands Proving Grounds
Las Cruces, New Mexico

Tract B-109

Corps of Engineers
Southwestern Division,

Lease No. W 41-038-eng-4391

NOTICE OF CANCELLATION OF LEASE
(Restoration)

Dated 15 June 1950

To: G. B. Oliver
Alamogordo, New Mexico

Pursuant to Article 8 of a certain lease dated the 1st day of August, 1945, by and between G. B. Oliver of the first part, and the United States of America, of the second part, covering property located XX in Otero County, New Mexico said property being more particularly described in the lease referred to;

NOTICE is hereby given that the United States of America exercises its rights reserved in said lease and will quit, relinquish, and give up said premises at the close of business on the 30th day of June, 1950.

UNITED STATES OF AMERICA

/s/ H. K. Shadel
By ~~H. K. SHADEL~~
Contracting Officer
Chief, Real Estate Division

Receipt of the above notice is hereby acknowledged. A joint survey of the condition of the premises XX is not requested, as restoration XXXX will not be required by the Lessor under paragraph 4 of the lease. (Delete inapplicable words)
30-Day Cancellation Notice required by lease is hereby waived.

/s/ G. B. Oliver
G. B. Oliver

/s/ Audra James Oliver
Audra James Oliver

WITNESS:

/s/ John R. Cobb

Project: White Sands Proving Ground
New Mexico
Tract No.: B-109 and B-109-1
Contract No.: DA-29-005-eng-507

LEASE AND SUSPENSION AGREEMENT

BETWEEN

G. B. Oliver and Amira Jones Oliver

and

THE UNITED STATES OF AMERICA

NEGOTIATED: /s/ HKS
H.K.S.

1. THIS AGREEMENT, made and entered into this 30th day of April, in the year one thousand nine hundred and fifty-one, by and between G. B. Oliver and Amira Jones Oliver, whose address is Alamogordo, New Mexico for themselves, their heirs, executors, administrators, successors and assigns, hereinafter called the Grantor, and THE UNITED STATES OF AMERICA, hereinafter called the Government.

WITNESSETH: The parties hereto, for the consideration hereinafter mentioned, covenant and agree as follows:

2. The Grantor hereby leases, releases, and delivers possession to the Government of all rights or privileges he possesses to the following described premises for the Government's full and unrestricted use, viz:

(SEE ATTACHED SHEET FOR COMPLETE LEGAL DESCRIPTION)

together with all other lands and rights, privileges and interest on land, owned or controlled by the Grantor within the presently established boundaries of the White Sands Proving Ground Project.

DESCRIPTION SHEET FOR TRACT NO. E-109, E-109-1 and E-109-2, ORDCIT PROJECT

PATENTED LAND:
Township 18 South, Range 7 East of the New Mexico Principal Meridian, Otero County, New Mexico, all of Section 25.

FEDERAL LAND: Dept. of the Interior (National Park Service)
Township 18 South, Range 7 East of the New Mexico Principal Meridian, Otero County, New Mexico, all that part of Section 12 lying southeast of U. S. Highway No. 70, less and except the NE¼NE¼ thereof.
Township 18 South, Range 8 East of the New Mexico Principal Meridian, Otero County, New Mexico, NE¼ and N½NW¼ of Section 7; N½ and SW¼ of Section 8.

FEDERAL LAND: Dept. of the Interior (B. of L. M.)
Township 17 South, Range 8 East of the New Mexico Principal Meridian, Otero County, New Mexico, all that part of the SE¼ of Section 31 lying southeast of U. S. Highway No. 70.
Township 18 South, Range 7 East of the New Mexico Principal Meridian, Otero County, New Mexico, S½ of Section 13; all that part of the SE¼ of Section 14 lying southeast of U. S. Highway No. 70; all that part of the E½ of Section 23 lying southeast of U. S. Highway No. 70; all of Sections 24 and 35.
Township 18 South, Range 8 East of the New Mexico Principal Meridian, Otero County, New Mexico, NE¼ of Section 8; W½ of Section 17; E½NE¼, Lots 3 and 4, E½SW¼, SE¼ of Section 18; Lots 1, 2, 3, 4, E½W½ and E½ of Section 19; all of Sections 20 and 29; Lots 1, 2, 3, 4, E½W½ and E½ of Sections 30 and 31.
Township 19 South, Range 7 East of the New Mexico Principal Meridian, Otero County, New Mexico, Lots 1, 2, 3, 4, S½N½ and S½ of Section 1; all of Sections 11, 12, 13, 14, 23 and 24.
Township 19 South, Range 8 East of the New Mexico Principal Meridian, Otero County, New Mexico, Lots 1, 2, 3, 4, S½N½ and S½ of Section 5; Lots 1 to 7, inclusive, E½SW¼, SE¼NW¼, S½NE¼, SE¼ of Section 6; Lots 1, 2, 3, 4, E½W½ and E½ of Section 7; all of Sections 8 and 17; Lots 1, 2, 3, 4, E½W½ and E½ of Sections 18 and 19; all of Section 20.

STATE LAND:
Township 18 South, Range 7 East of the New Mexico Principal Meridian, Otero County, New Mexico, all of Sections 26 and 36.
Township 19 South, Range 7 East of the New Mexico Principal Meridian, Otero County, New Mexico, Lots 1, 2, 3, 4, S½N½ and S½ of Section 2.

3. The Grantor warrants that he holds, or held prior to the Government's occupancy, title to and/or possession of grazing privileges on the above described lands under the following instruments;

U. S. Grazing License numbered ____________________

which expires ____________________.

Lease from the Government numbered ____________________

which expires ____________________.

U. S. Grazing Permit numbered (unnumbered)

which expires 30 June 1958.

U. S. Forest Service Permit numbered ____________________

which expires ____________________.

Lease numbered S-4873, which expires 1 October 19 50, from the State of New Mexico.

Lease dated ____________________ from ____________________
(Lessor)

____
(Lessors - here identify railroad and other leases)

Conveyances dated ____________________

and recorded in the land records of ____________ County __________,

at Page (s) ____________, Book (s) ____________.

4. To have and to hold the said premises with their appurtenances for the term beginning 1 July 1950 and ending 30 June 1951; provided, however, that unless and until the Government shall give notice of termination in accordance with the provisions hereof, this agreement shall remain in force thereafter from year to year without further notice; provided further that adequate appropriations are available from year to year for the payment of rentals and provided further that this agreement shall in no event extend beyond 30 June 1960.

5. The Government shall not assign this agreement in any event; shall not sublet the demised premises; and shall not use said premises for other than military purposes.

6. The Government shall pay to the Grantor for the use of the said premises, for the period beginning 1 July 1950 and ending 30 June 1951, rental at the following rate: Three thousand and no/100ths ($3,000.00) Dollars per annum. Payment shall be made at the end of each quarter by the Finance Officer, U. S. Army, Fort Bliss, Texas.

7. The Grantor agrees to continue paying the taxes, State or other lease fees and other overhead costs, unless payment of said fees is cancelled, or forgiven by the Government.

8. The Grantor agrees that in the event the payment of State or other lease fees are eliminated by reason of the Government acquiring title to said lands, the consideration for the renewal of this agreement as hereinbefore provided, shall be reduced in the amount of the annual lease fee or fees eliminated.

9. The Government recognizes that this transaction shall be without prejudice to the position of the Grantor in any application for grazing privileges made when and to the extent that the herein described lands are returned to federal grazing administration.

10. The Government shall have the right during the existence of this agreement to make alterations, attach fixtures and erect additions, structures or signs in or upon the premises herein described, which fixtures, additions or structures so placed in, upon or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. The Government shall surrender possession of the premises upon expiration or termination of this agreement and if required by the Grantor shall, prior to expiration or termination of this agreement, restore the premises to as good condition as that existing at the time of entering upon the same under this agreement, reasonable and ordinary wear and tear and damages by the elements or by circumstances over which the Government has no control, excepted: Provided the Government shall have the right and privilege of making a cash settlement with the Grantor in lieu of performance of its obligation, if any, to restore the real estate, personal property (if any be demised herein), or both real and personal property, which settlement shall in no event exceed the amount of any diminution in value of the premises resulting from the Government's use and occupancy; provided further that if the Grantor requires restoration of the premises to such condition or payment in lieu thereof, the Grantor

shall give written notice thereof to the Government at least 60 days before the expiration or termination of this agreement. Should a mutually acceptable settlement be made thereunder the parties shall enter into a supplemental agreement hereto effectuating such settlement. In the absence of a firm determination as of the date of this agreement of the purposes for which the Government will use the demised premises, the rental reserved herein has been based on the use of the premises for agricultural purposes. In view thereof, the term "reasonable and ordinary wear and tear," as used herein shall mean reasonable and ordinary wear and tear that could be expected to result in use of the premises for agricultural purposes. The kind, size, construction and condition of each artificial improvement is shown in detail on "Schedule of Improvements for Lease and Suspension Agreement," attached hereto and made a part of this agreement.

11. Provided that in the event any Government property is located on the demised premises at the termination date, the rental will continue until such property is removed, restoration completed as provided for in Article 10 hereof, or a cash settlement and possession tendered to the Grantor.

12. The Grantor grants to the United States the right of immediate occupancy and use of the land hereinabove described, for any military purpose whatsoever, from and after the acceptance by the United States of this agreement.

13. The Grantor warrants that he has not employed any person to solicit or secure this agreement or any agreement for a commission, percentage, or contingent fee. Breach of warranty shall give the Government the right to annul the agreement, or in its discretion to deduct from the rental the amount of such commission, percentage, brokerage or contingent fees. This warranty shall not apply to commissions payable by Grantors upon contracts or agreements secured or made through bona fide established commercial or selling agencies maintained by the Grantor for the purpose of securing business.

14. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit to arise therefrom. Nothing, however, herein contained shall be construed to extend to any incorporated company, if the agreement be for the general benefit of such corporation or company.

15. This agreement is made pursuant to authority of the Act of 9 July 1942, (Public No. 663, 77th Congress) as amended 28 May 1948 (43 USC 315q).

16. It is the intention of the Grantor and he hereby agrees that this agreement may be accepted by the United States through any duly authorized representative, by delivering, mailing or telegraphing a notice of acceptance to the Grantor at the address stated below, at any time within six months from the date hereof.

17. The Government may terminate this agreement at the end of any fiscal year by giving 90 days' notice in writing to the Grantor and no rental shall accrue after the effective date of termination.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

In presence of:

/s/ John R. Cobb (Witness)	/s/ G. B. Oliver G. B. Oliver (Grantor)
/s/ John R. Cobb (Witness)	/s/ Audra James Oliver Audra James Oliver (Grantor)
(Witness)	(Grantor)
(Witness)	(Grantor)

Box 647,
Alamogordo, New Mexico
(Address to which notice of acceptance of this agreement is to be sent)

ACCEPTED for and on behalf of the UNITED STATES OF AMERICA

The supplies and services to be obtained by this instrument are authorized by, are for the purposes set forth in, and are chargeable to procurement authorities below enumerated the available balances of which are sufficient to cover the cost thereof.

211/20905 8-6351 P331 S29-005

By /s/ Henry K. Shadel
(Name)

(Official Title)

HENRY K. SHADEL
Chief, Real Estate Division
Office of the District Engineer, C of E
Albuquerque, New Mexico
(Contracting Officer)

APPROVED:

/s/ Guy Shepard
Commissioner of Public Lands
State of New Mexico

(SEAL)

CERTIFIED TRUE COPY
Wendell Hagood
attorney

Senator **Domenici**. Thank you very much. Senator Bingaman, do you have any questions?

Senator **Bingaman**. I do not really have any questions. I heard some of the testimony in a different form about 18 months ago when I was in Carrizozo one day and I had the privilege of meeting Mr. McDonald and his daughter at that time and several other people. I think they certainly have a good case to make here for inadequate treatment and unfair treatment in handling this thing.

Senator **Domenici**. Thank you very much. Maybe I just have a couple of questions. First, I want to thank you. I think you did an excellent job of laying before the Senate committee the history and the unfair treatment that has occurred. It is obvious that the failure to treat these ranches as units is a very important issue. If you strip out the fee in the State and the Federal and treat them separately at different times, you will certainly come up with something much different than the value of the ranch.

Changing direction from leasing to something else that obviously caused the Federal Government to act improperly when it went back to negotiating, in my opinion, and we will have to fix it some way and we will. Have any of you gone through a State tax proceeding on behalf of some member of the family with reference to a ranch in properties we are talking about? Yes, Mr. McDonald.

Mr. **McDonald**. I got ahold of my sister's-in-law closing of her case awhile back in her death and I just looked it over a little bit, but one spot in that they hooked her estate at $105,000 in tax. I do not know how much more. I am not a tax man. My son, he is, but he has not had a chance to look over it, but I am telling you they hooked that estate plenty over there.

Senator **Domenici**. That estate would have been a part of White Sands lands?

Mr. **McDonald**. Yes, it is in White Sands. I also approached Holmes, he is an appraiser in that building there at La Cruces once. And I said, Mr. Holmes, how do you appraise these ranches? He said, I appraise everything on them. And I said, how do you mean everything? And he said I appraise everything there. Everything there is a part of that ranch.

I said why is it that the White Sands will not pay on these leases on anything on the patented and the State land and let the Federal land go? Well, he said, that is their method. He said when I go on an appraisal, I appraise everything.

Senator **Domenici**. Mr. McDonald, I was asking very specifically if any of you have had the grazing permits that the Federal Government had issued to you or your family included in the estate that you are aware of that we might be able to get some information on as to whether the Federal Government, regardless of the court ruling that the permits are not property rights, obviously they have a value. What has happened here is the court is using one set of terminology that applies to property law and the others are using an other value that is certainly more than a freely cancellable permit.

I just wonder if any of these ranches have that evidence. If we could get it, it would be helpful.

Mr. **Oliver**. My father passed away in 1972 and my mother in 1976, but this was after the time the Federal lands might have been withdrawn from Federal use. But I think I can get you a case that you are talking about that happened, I think, in 1969 or something like that, where these things were of definite value as they were coming up with the value of this estate. If you would like to have it, I certainly could get it for you.

Senator DOMENICI. If you can get it, we will submit it within the record, if you will get it to us. We will make it a part of the record.

Mr. OLIVER. I think it would be valuable to you too, sir.

Senator DOMENICI. If you get it to us and we have some questions, we will get the staff to get ahold of you for that information. Was there somebody else? Mr. Withers.

Mr. WITHERS. Senator Domenici, we paid on the whole ranch when my mother died.

Senator DOMENICI. What year was that?

Mr. WITHERS. Mother died in 1980.

Senator DOMENICI. You are free to come up, pull a chair up. Just tell us your name for the record and we will be glad to have you.

Mrs. WITHERS. Ann Withers, Alamorgordo, N. Mex. Mother passed away in 1980. The estate was settled in 1981. An estate tax was paid on the entire unit. By 1983, my husband Jess Withers passed away. In probate a few days ago, I had sent a description of State land which was his part of the inheritance to the State land office. Mr. Baca's office notified me. I had no interest, because the government had condemned the land in 1982 and we had no interest. I had no interest.

Senator DOMENICI. We have heard that on a number of cases as far as the State's cancellation. Can you furnish us with information about the 1980 estate in terms of how it was appraised?

Mrs. WITHERS. Yes, sir.

Senator DOMENICI. Now, do not be afraid. We are not going to hold you to those values. We just want to get some evidence that the government on the one hand is treating it one way, and on the other hand it is treating it differently.

Mrs. WITHERS. It was $28 per acre BLM, $70 per acre State.

Mr. WITHERS. I have that at home. I can send you a record of that if you want it.

Senator DOMENICI. All right, we will have the staff get ahold of you and make sure we get that done and get it up here right away so we can make it part of the record.

Is there anybody that came up along here that did not testify that can give us information with reference to this issue of taxation and the Internal Revenue on death taxes? I actually have run into a couple of constituents in the course of time sitting around after an event where they tell us they have had this.

Mr. JONES. It is a common procedure in appraising lands outside of the [inaudible] I will give you that. The value of the permit is only considered a part of the economic unit and it is taxed under [inaudible].

Senator DOMENICI. That was Bob Jones. Commissioner Baca, did you want to comment?

Mr. BACA. No, that is all right, Mr. Chairman.

Senator DOMENICI. Any of you who have testified, after you think about this, if you want to add anything further to the record, we will keep it open for a couple of weeks and we would be glad to accept any further written evidence or testimony you might want to submit to us and make it a part of the record as if it were given here today. Thank you all very much.

Our next panel is made up of Dr. James R. Gray, professor, New Mexico State University, member, Range Improvement Task Force, Las Cruces, N. Mex.; Jim Cannon, vice president, credit, Federal Land Bank of Wichita; Rubin Pankey, New Mexico Cattlegrowers Association; Bob Jones, Public Lands Council, National Cattlemen Association.

Will all of you take a seat at the witness table please. We will proceed with Dr. Gray going first.

Let me just invite all of the New Mexicans that are here, to the New Mexico Society, which is an organization here in Washington, is holding a reception at 6 o'clock for the U.S. Treasurer, Captain Ortego, in the Rayburn Building at 2168. That is the room number, Rayburn. You are all invited. We would love to have you if you would like to come over there. Some of us will be there and you will see a lot of New Mexicans.

Dr. Gray, we are glad to have you and we look forward to your testimony.

STATEMENT OF DR. JAMES R. GRAY, PROFESSOR, NEW MEXICO STATE UNIVERSITY, MEMBER, RANGE IMPROVEMENT TASK FORCE

Dr. **Gray**. Thank you very much, Mr. Chairman. I am here in response to the letter from Senator Wallop, requesting New Mexico State University to represent them at this hearing. The letter that we received indicated that you wish four items to be discussed. We are here to discuss three of those items dealing with just compensation for property taken by condemnation in the White Sands Missile Range, methods used in appraisal, and assessment of fair market value and compensation for termination and suspension of grazing permits.

Before I get into the details, I would like to briefly review some of the research that we have conducted on the ranch values in New Mexico.

Senator **Domenici**. Could we have order please. If you have to talk, go out in the hall for just a moment and then come back in. We would appreciate it very much. Go ahead.

Dr. **Gray**. The Bureau of Agriculture Economics of the U.S. Department of Agriculture conducted a study dealing with ranches in the southern half of New Mexico over a period of about 14 years, from 1940 to 1954. Its successor, the Economic Research Service, continued these studies with some revisions and released studies dealing with the period 1950 to 1969, also, in 1965 to 1972.

The agricultural experiment station has conducted studies of ranches over the following period, 1966, 1972-73, 1978-79, 1980, and 1982. In all of these previous studies, they dealt with the organization, the investment, cost, and return of different sizes of cattle ranches in various parts of the State.

In 1978, the range improvement task force, a multidisciplinary group of scientists at New Mexico State University, came into being and began a short-term study of public land issues. These studies have dealt with lease fees, grazing land values, including permit values, and, specifically, we made a study of the value of ranches on the White Sands Missile Range.

Now in terms of ranch appraisal techniques, there are three basic methods used by ranch appraisers for valuing real property. They are the comparative value approach, the income value, and the market value. The comparative appraisal technique involves appraisers selecting a ranch in a particular area, making an exhaustive appraisal of it, and selecting the factors which affect its value. They call it the benchmark ranch.

Individual appraisers then value individual ranches by comparing the score of the individual ranches against the benchmark ranch. Factors commonly included in this appraisal technique are carrying capacity of the ranch, the level of water developments, quality rating of improvements, distance to market, topography, and so on.

I understand we have a representative from the Federal land bank. This has been one of their major approaches.

Another method is the income value approach. This method involves determining ranch receipts, cost and eventually the net returns or the income returning to land. The net returns are then capitalized or divided by an interest rate which is representative of the long-term real estate mortgage interest rate. The result is the capitalized value of land or the income value of the land.

The third method is the market value approach. This is based on information of the current market for ranches and reports of nearby ranch sales. Based on this nearby ranch sale, a value is placed on the ranch being appraised. Adjustments are made for various quality factors.

While appraisers traditionally use all of the above methods in making a ranch property appraisal, most research studies by economists employ the income value method and the market value method. These two methods are most familiar to ranchers and ranch buyers and are readily acceptable by them.

Now, we turn to what we call the ranch unit sale bases or the bases on which ranches are sold in the West. Sale prices of ranches can be based on a number of different criteria. Traditionally many cow-calf ranches were sold on a mother cow basis. Livestock operations in the West have drastically evolved until we have many kinds of livestock operations that are not necessarily mother cow operations. They are the cow-calf operations, the cow-calf-yearling operations, the yearling ranches, purebred or combination, purebred and grade cattle ranches, combination cow-calf and ewe-lamb ranches.

A common livestock unit was needed for establishing grazing fees or ranch selling prices. The result was an animal unit measure, which essentially rates all livestock on the amount of forage they consume.

Another measure used in certain areas and under certain conditions is the acre measure. This measure is commonly used in valuing cropland. It is also used in selling ranches to individuals who are not bona fide ranchers, or we call them hobby ranchers. The reason that this unit is here is because it is quite common to farmers and people in the East.

The animal unit measure is the basis for most western ranch sales today. Its advantage is that it includes all ages, sex, and kinds of grazing livestock in a common unit. It also permits inclusion of intermingled tenure classes of land to be included in valuing the ranch. Leasehold values are automatically included in the animal unit measure, because the value of the ranch is based on the measure of livestock herd size rather than a land measurement.

I am going to discuss leasehold concepts in just a minute.

The sale value per ranch is commonly included in appraiser reports as the terminal number in the appraisal. However, ranches are seldom advertised on a sale price per ranch without some measure of size. When size is mentioned it is usually in terms of animal units. When size in acres is included, the ranches are either small, have few acres of leased or permit lands or as I said previously they are for a nonwestern hobbiest.

Now, getting into this subject of leasehold and grazing permit values. The technical economic term is leasehold value. The common term used in the West by almost all ranchers is its grazing permit value. They are the same thing. In general, Federal lands are administered by the Bureau of Land Management and by the Forest Service and in their permit system, they use the animal unit measure as the basis for their fees.

Now, the formula for leasehold values is—I hesitate to say simple, but it is really a simple concept. It is merely the return to land, not including the lease fee cost, which is called economic rent minus the contractual rent, which is a lease fee and that difference is then capitalized by some sort of a capitalization rate, normally a long-term rate and that is a result of leasehold value.

This is the economic underpinning in all discussions of grazing permit values. Leasehold values in Federal land areas may be termed and is synonymous with the value of the grazing permit. This value occurs because economic rent exceeded contractual rent for a large number of years causing the difference to be capitalized in the leasehold value. And this leasehold value is being included in the appraisal report when land is sold or valued for tax purposes.

RANCHLAND VALUES IN NEW MEXICO

In 1979, a study was made by the group I represent, the range improvement task force, to determine the appraisal value of grazing land in New Mexico. The basic approach used was to interview members of the New Mexico Society of Farm Managers and Rural Appraisers, ranch realtors, ranch brokers, and bank credit officers dealing with ranch loans throughout New Mexico to determine the values they placed on grazing land, both owned and leased.

Particular emphasis was placed on the value of grazing permits in these reports. We got a total of 50 usable responses based on personal interviews. Incidentally, the people we interviewed had to be highly qualified, because we went to the society and asked for a list of their best ranch appraisers, their best credit officers and so on.

Average animal unit values are included in my report and they are shown for various parts of the State and also in the backup documents, they are shown over a period of years.

Please note in the report that average values declined in 1979 from $3,400 for 100 percent deeded land to $913 and $1,175 for two classes of federal grazing permits, all values reported per animal unit.

Public permit values over the years have increased at a slower rate than private land values since 1966. However, a 1980 study indicated a rapid recovery and increases in value of BLM grazing permits following completion of environmental impact statements and the accompanying decision documents regarding the future sizes of grazing permits. The average increase in a BLM grazing permit was 13 percent in 1979 to 1980 alone and this was an increase of 23 index points based, I think, on the 1967 take.

This far exceeded the increase in private land values over that period.

Now we turn to the alternative valuation methods for cattle ranches specifically on the White Sands Missile Range, From 1942 until 1982. We used three approaches initially in evaluating or estimating ranch values on the White Sands Missile Range. The first of these is really not a valuation method, but we were interested in determining how much income ranchers had foregone because of this action. It is called the foregone economic or the year-end bank balance method.

The second approach we used was the leasehold value approach based on our interview with the appraisers in the prior study.

Lastly, we used the income approach, in other words, the net returns to land capitalized. We estimated some of the results and there are about eight tables and I am not going to go through all of the numbers for you, but if I can read just some of the final results.

First, the foregone income of about a 1,000-head ranch on the White Sands Missile Range from 1942 to, I believe I said, 1982, the foregone income was $10 million and this is in table 5 of my statement. This is a gross income based on 1982 dollars that included a consideration of the inflation rate and we also used an interest accumulation based on long-term savings in banks.

Now, if we take the $10 million, which is the gross, and we substract from it the amount of compensation paid to these ranchers over that period by the Corps of Engineers, we end up with a gross income or a net income or income value of $4.9 million. We presented this in our statement, because that gives us a kind of an outside estimate of how much income these people received or should have received over the period.

Now, as we go to a leasehold value concept, we took the results from our 1979 study from the appraisers and we adjusted it to 1982 and we ended up with $1,654 per animal unit as the leasehold value of a grazing permit. On a ranch of about 1,000 animal units that would be about $1.6 million and that is in table 9 of the statement.

We also capitalized the net income or the net return to land and the difficulty with this process is determining what interest rate to use. If we use an interest rate of 12 percent, a sound animal unit ranch would have a value of $765,000. If we took the same ranch and capitalized it at 3 percent, we would end up with a ranch value of $3 million and the details of that are in table 10 of the statement.

I am now down to the conclusions. Three conclusions can be drawn from this economic analysis of ranch values in the White Sands Missile Range. They are:

No. 1, just compensation for a ranch in the White Sands Missile Range with a size of 992 animal units should have been $1,640,800 using the leasehold value approach of $1.654 per animal unit. An average of the four capitalization rates used in the income approach yielded a value of $1,500,000 with an average capitalization rate of 8.156 percent or almost the same result as the leasehold value result. For other ranch sizes for which detailed analyses have not been made, the leasehold value should be used.

Second, standard western ranch appraisal techniques should have been used to determine just compensation, including leasehold values based on the animal unit sizes of the ranches involved.

Third, if the leasehold value approach is used and based on ranch animal unit sizes, fair compensation could be determined. Adequate compensation for termination and suspension of grazing permits and leases can be achieved using the leasehold value approach in combination with ranch animal unit sizes.

I would like to add one last comment and that is that all of our report deals with tangible market values. There was one cost that we were not able to include in our report. This is the nonmarket value of a social cost of a 40-year delay.

Thank you very much.

[The prepared statement of Dr. Gray follows:]

Report 17

Methods and Compensation for Ranch Properties and Grazing Permits on the White Sands Missile Range

NEW MEXICO STATE UNIVERSITY

Range Improvement Task Force
Agricultural Experiment Station
Cooperative Extension Service

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ABSTRACT

Ranch appraisal techniques and the reasons for sales of ranches in public land areas on an animal unit basis were reviewed. The economic foundation was given for placing values on public land grazing permits. Historical changes in grazing permit values in New Mexico were presented as well as differences in values among ranches that were almost entirely deeded and almost entirely permit lands. Three approaches were evaluated for estimating ranch values in the White Sands Missile Range. They were the foregone income method, the leasehold value approach, and the income approach. It was concluded that just compensation for a ranch in the White Sands Missile Range should have been $1,654 per animal unit. Also, standard western ranch appraisal techniques should have been used, including leasehold values based on the animal unit sizes of ranches involved. Lastly, adequate compensation for termination and suspension of grazing permits and leases can be achieved using the leasehold value approach.

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September 1983 Las Cruces, New Mexico

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METHODS AND COMPENSATION FOR RANCH PROPERTIES AND GRAZING PERMITS ON THE WHITE SANDS MISSILE RANGE

James R. Gray, John M. Fowler, and
Jerry G. Schickedanz, Coordinator
Range Improvement Task Force
New Mexico State University

INTRODUCTION

This statement has been prepared for the U.S. Senate Subcommittee on Public Lands and Reserved Water for a hearing in Washington, D.C. in September 1983. Testimony will be given dealing with three of the four items listed in a letter to Dean L.S. Pope, New Mexico State University, by Senator Malcolm Wallop, dated July 11, 1983. The three items are just compensation for property taken by condemnation on the White Sands Missile Range, methods used in appraisal and assessment of Fair (Current) Market Value, and compensation for termination and suspension of grazing permits and leases.

After a brief review of research on ranch values in New Mexico, succeeding sections of this statement will include a discussion of ranch appraisal techniques, the bases used for valuing western ranch units, a discussion of grazing permit values in public land areas, ranch land values in New Mexico, and ranch values on the White Sands Missile Range in 1982. The conclusion section will deal specifically with the items in Senator Wallop's letter.

REVIEW OF RESEARCH ON RANCH VALUES IN NEW MEXICO

Studies of ranch organization, investment, costs and returns were initiated in the Southwest Region, including the southern half of New

Mexico in 1952 (Gray, 1956). Under the sponsorship of the U.S.D.A. Bureau of Agricultural Economics, an historical study was made for the period 1940-54 of a medium-size family-operated cow-calf ranch. Annual investments, costs and returns were reported. Another U.S.D.A. study was made for the 1950-69 period with the difference that the ranch sizes were held constant from year to year. Finally, a study was made by the U.S.D.A. Economic Research Service of a viable (larger and more profitable) ranch for the period 1965-72.

The New Mexico State University Agricultural Experiment Station undertook studies of different sizes and types of ranches in each of five ranching areas in New Mexico in 1966, 1972-73, 1978-79, 1980 and 1982. Most ranch studies were of single years and included values of resources per ranch as well as costs and returns. A separate land value study was made of assessed and sale prices of grazing lands in 1966-67.

In recent years the Range Improvement Task Force, a multi-disciplinary group of scientists at New Mexico State University, has made short-term studies of public land issues. These studies have dealt with lease fees, grazing land values (including grazing permit values), and specifically with the value of ranches on the White Sands Missile Range.

RANCH APPRAISAL TECHNIQUES

Three basic methods are used by ranch appraisers for valuing real property, and one additional method for valuing ranch chattel property. The three basic approaches to value are comparative, income and market. The comparative appraisal technique involves appraisers selecting a ranch in an area, making exhaustive appraisal of it, and selecting factors that affect the bench-mark ranch's value. Individual appraisers then value individual ranches by comparing the score of the individual ranches with the score and value of the bench-mark ranch. Factors commonly included in the appraisal technique are: carrying capacity of the ranch, level of water developments, quality rating of improvements, distance to market and topography. This technique is commonly used by Federal Land Bank appraisers.

Another method is the income value approach. This method involves determining ranch receipts, costs, and eventually the net returns or income to land. The net returns are capitalized (divided) by an interest rate which is representative of the long-term real estate mortgage interest rate. The result is the capitalized value of land.

The third method is the market value approach. Based on information of the current market for ranches and reports of nearby ranch sales, a value is placed on the ranch being appraised. Adjustments are made for differences between ranches sold previously in the area and the property being appraised.

The method used exclusively for chattel property is the replacement cost approach. In this approach depreciation based on age of each of the chattel property items being appraised is subtracted from the current new price of items being appraised.

While appraisers traditionally use all of the above methods in making a ranch property appraisal, most research studies by economists employ the income value method and the market value approach. These two methods are most familiar to ranchers and ranch buyers and are readily acceptable by them.

RANCH UNIT SALE BASES

Sale prices of ranches can be based on a number of different criteria. Traditionally many cow-calf ranches were sold on a mother cow basis. Over the past several decades, ranchers have adopted different kinds of cattle herd organizations, which have made the mother cow basis for selling ranches obsolete. Livestock operations may be characterized mainly as cow-calf, cow-calf-yearling, yearling, purebred or combination purebred and grade cattle, and combination cow-calf and ewe-lamb ranches. A common livestock unit was needed for establishing grazing fees or ranch selling prices. The result was an animal unit (AU) measure which essentially rated all livestock based on the amount of forage they consumed. The standard was a nursing cow being one animal unit, yearling cattle 0.7 AU, bulls 1.4 AUs, sheep 0.2 AU, etc.

Another measure used in certain areas and under certain conditions is the acre measure. This measure is commonly used in valuing cropland. Lastly, occasionally a ranch will be sold as an entire unit, without regard to measures of size.

The animal unit measure is the basis for most ranch sales today. Its advantages are that it includes all ages, sex classes and kinds of grazing livestock in a common unit, and it also permits inclusion of intermingled tenure classes of land to be included in valuing a ranch. Leasehold values are automatically included in the animal unit measure because the value of the ranch is based on a measure of livestock herd size rather than a land measurement. Leasehold value concepts are discussed below.

The value per acre rather than value per animal unit is used occasionally when ranches are being subdivided and parcels sold to different buyers. These tracts, which are usually too small for animal unit measures, may be bought by neighboring ranchers who are expanding their operations.

The sale value per ranch is commonly included in appraiser reports as the terminal number in the appraisal. However, ranches are seldom advertised on a sale price per ranch without some measure of size. When size is mentioned it is usually in terms of animal units. When size in acres is included, the ranches either are small or have few acres of leased or permit lands.

LEASEHOLD AND GRAZING PERMIT VALUES

Grazing land in New Mexico is divided mainly into three major ownerships -- private, state, and federal. Privately-owned land may be grazed by the owner, or leased to others under a variety of leasehold conditions. State lands are mostly school lands, leased to stockmen under state leasing regulations. In general, federal lands are administered by the Bureau of Land Management under either a permit or lease system, and by the Forest Service under a permit system.

Leasehold interest (value) procedures are well-documented in appraisal theory, according to a standard textbook (American Institute of Real Estate Appraisers, The Appraisal of Real Estate, pp. 447-459). The standard procedure to be followed, ignoring risk factors, is:

$$\frac{\text{Economic Rent} - \text{Contractual Rent}}{\text{Capitalization Rate}} = \text{Leasehold Value}$$

Economic rent is the net return to land after all costs except contractual rent has been subtracted from receipts. Contractual rent is the lease or grazing permit fee. Contractual rent may be charged on an animal unit month, per acre, or per unit of livestock weight or gain basis.

Capitalization rate is usually based on the long-term rate charged for real estate capital.

Leasehold value in federal land areas may be termed, and is synonymous with, the value of the grazing permit. This value occurs because economic rent exceeded contractual rent for a large number of years, causing the difference to be capitalized into leasehold value. Public land officials recognize that the grazing permit cannot be separated from the ranch and sold separately from it. They also, along with the Internal Revenue Service, acknowledge the existence of leasehold values in public grazing permits.

The essential difference between leasehold values on a per-acre or per-animal-unit basis is that leasehold values are added to the value per acre of fee simple rangelands, whereas leasehold values are averaged in with the value per animal unit of fee simple rangelands. In the first case a ranch with a small fee simple base property may have a value of several hundred dollars per acre over the land market price, entirely because it is the base property for leasehold values. On the other hand, as will be shown below, the leasehold values of federal grazing permits are much lower than the value per animal unit of fee simple rangeland, with the average value per animal unit declining as public land proportions of a ranch increase.

RANCH LAND VALUES IN NEW MEXICO

In 1979 a study was made by the Range Improvement Task Force, New Mexico State University, to determine the appraisal value of grazing land in New Mexico. The basic approach used was to interview members of the New

Mexico Society of Farm Managers and Rural Appraisers, ranch realtors, ranch brokers, and bank credit officers dealing with ranch loans throughout New Mexico to determine values of grazing land, both owned and leased. Particular emphasis was placed on the value of grazing permits on federally-owned lands. A total of 50 useable responses were received based on the personal interviews. Some respondents were knowledgeable about values in more than one area of the state. Average animal unit values for 1979 are reported in table 1. Please note that average values declined from $3,417 for 100% deeded land to $913 and $1,175 for two classes of federal permits, with all values reported per animal unit. Table 2 shows value for the various ranching areas.

The trend in values per animal unit from 1966 to 1979 are shown both in dollars and in index numbers in table 3. Public permit values increased at a slower rate than private land values over the period. However, a 1980 study indicated a rapid recovery and increase in values of BLM grazing permits following completion of environmental impact statements and accompanying decision documents regarding the future sizes of grazing permits. The average increase in value from 1979 to 1980 was 13%, or an increase of 23 index points from 1979 to 1980. This exceeded the increase in private land values.

ALTERNATIVE VALUATION METHODS FOR CATTLE RANCHES ON THE WHITE SANDS MISSILE RANGE, 1942-1982

Three approaches were evaluated to estimate ranch values on the White Sands Missile Range. The first was the foregone income method based on a year-end bank balance, all reported in 1982 dollars. The second was the

Table 1. Average animal unit values based on respondent's area of expertise in New Mexico in 1979

Areas of State	Number of Pesponses	Ranchland Values per AU with Ranches of: 100% deeded	½ deeded ½ permit	Almost all permit	Average USFS permit values	Average BLM permit values
		dollars				
Statewide[1]	13	2,865	1,765	1,075	973	888
Northern	3	--	--	--	1,000	750
Western	1	3,350	--	1,000	1,100	1,000
Central	4	2,638	1,481	956	925	790
Southern	5	2,638	1,763	875	967	800
Northwestern	4	2,717	1,375	913	1,067	825
Northeastern	2	3,225	1,700	1,225	875	500
Southwestern	15	2,869	1,808	1,139	938	881
Southeastern	3	2,650	1,700	1,150	1,750	1,000
Grand average[2]		2,828	1,691	1,053	985	857
Low average[3]		2,396	1,531	928	925	737
High average[4]		3,417	2,025	1,300	1,175	913

[1] "Statewide" refers to those respondents who indicated their responses apply to all of New Mexico.

[2] Totals may not add because of rounding.

[3] A simple average of the low responses for those persons that reported a range of values instead of an absolute number.

[4] High average is an average of the high responses for those persons that reported a range of values.

Table 2. Average animal unit values based on responses for the major ranching areas of New Mexico in 1979

Areas of State	Number of Responses	100% deeded	½ deeded ½ permit	Almost all permit	Average USFS permit values	Average BLM permit values
		dollars				
Statewide[1]	13	2,865	1,765	1,075	973	888
Northwest	8	2,875	1,375	930	1,050	829
Northeast	5	3,225	1,700	1,225	938	667
Central	4	2,637	1,481	956	944	868
Southwest	21	2,834	1,794	1,064	953	869
Southeast	8	2,640	1,750	930	1,163	840

[1] "Statewide" refers to those respondents who indicated their response applies to all of New Mexico.

Table 3. Average permit values estimated by respondents reporting changes in values over at least eight years, compared to the U.S. Consumer Price Index and an index of grazing land prices in New Mexico, 1965-79 (all indexes 1965 = 100)

Year	BLM Permits Value	BLM Permits Index	USFS Permits Value	USFS Permits Index	U.S. Consumer Price Index	N.M. Grazing Land Price Index[1]
	dollars					
1966	590	109	625	105	103	109
1967	660	122	657	110	106	116
1968	697	129	688	116	110	124
1969	753	139	729	122	116	133
1970	807	149	785	132	123	143
1071	859	159	822	138	128	153
1972	863	160	853	143	133	165
1973	896	166	898	151	141	185
1974	920	170	937	157	156	231
1975	942	174	976	164	171	242
1976	947	175	1,015	171	180	250
1977	951	176	1,053	177	192	276
1978	953	176	1,094	184	207	285
1979	959	177	1,131	190	232[1]	308

[1] From "Farm Real Estate Market Developments" [3].

leasehold value approach based on the current market values per animal unit. Lastly, the income approach was used. These methods for establishing ranch value are designed to allow a quantitative assessment of the economic impact that resulted from rancher displacement on the White Sands Missile Range. Historical data for the relevant area are presented to aid individuals or agencies in their own internal analysis.

Table 4 presents net returns to operator labor, management and capital based upon historical ranch budget data collected by the New Mexico State University Agricultural Economics Department over a 40-year period. The data represent a "typical" income that would have been earned by an average manager on a particular size ranch. Extrapolation and interpolation to various ranch sizes are possible based upon known empirical relationships determined by extensive research.

Table 5 displays the year-end bank balance compounded to current year (1982) dollars and cumulated from the year of displacement to 1982. Compounding was based upon the consumer price index. The previous year's bank balance was assumed to earn the interest rate paid on time and savings deposits for that year. The budget information presented in tables 4 and 5 may be converted to an individual's operation by adjusting the net income according to the lease payment received from the federal government and the state lease fee paid by the operator for each year. The adjustment data for a large cattle ranch are presented in table 6 and the adjustments to the incomes determined by the typical ranch budget for the same size are presented in table 7. An additional example of a 450 AU operation personalized to a medium-size ranch is presented in table 5.

An alternative valuation method is known as the leasehold valuation method. With this approach the grazing privileges have acquired value over time when exchanged in the free market. The leasehold value for ranches that consist primarily of federal lands were determined for southwestern New Mexico and are presented in table 9. The historical carrying capacity in animal units (AU's) is multiplied by the value per AU and adjusted according to the New Mexico land value index to yield the current market value of a 992 AU ranch if it were sold in 1982.

Another approach to value is presented in table 10 where annual net income is converted to current 1982 dollars and averaged over the time period. This average net income is capitalized at different rates to provide various estimates of value.

The series of information provided in table 11 enables the calculation of net income per head if all or part of the ranch were leased to another private individual during any portion of the period. The net income from the lease would be used in place of the present year net income presented in tables 7 and 8.

Table 12 displays the annual average livestock prices that were received for relevant classes of livestock during the period 1940-1982. These prices, along with livestock weight records that ranchers typically keep, can be used to calculate the gross income for a particular ranch.

Table 4. Calculation of Net Returns to Operator Labor, Management and Total Capital New Mexico, 1940-82

Year	220 Head	USDA-Southwest 220 Head	USDA-Southwest 390 Head	Northeast New Mexico 240 Head	Southwest New Mexico 240 Head	ALL New Mexico 300 Head	Prelim Adjusted 300 Head	Final New Mexico 450 Head	Final New Mexico 1000 Head
1940	1,376						1,698	2,904	8,422
41	2,590						3,196	5,465	15,852
42	3,325						4,103	7,016	20,351
43	2,049						2,529	4,325	12,544
44	1,541						1,902	3,252	9,434
45	2,334						2,880	4,925	14,285
46	2,424						2,991	5,115	14,835
47	4,140						5,109	8,736	25,341
48	6,318						7,797	13,333	38,673
49	6,636						8,189	14,003	40,617
1950	9,183	8,397					11.332	19,378	56,207
51	9,233	8,293					11,191	19,137	55,507
52	1,134	38					51	87	253
53	-490	-1,927					-2,600	-2,300	200
54	323	-1,281					-1,729	-1,429	1,071
55		1,399					1,888	3,228	9,364
56		-3,078					-4,289	-3,989	-1,489
57		2,771					3,739	6,394	18,545
58		7,524					10,154	17,363	50,364
59		6,559					8,851	15,135	43,901
1960		7,112					9,598	16,413	47,606
61		8,167					11,021	18,846	54,664
62		7,789					10,511	17,974	52,135
63		5,081					6,857	11,725	34,011
64		1,310	-1,183				1,768	3,023	8,769
65		6,146	8,777	6,513	5,269		8,294	14,183	41,138
66		7,293	10,729	3,777			4,810	8,225	23,858
67		7,216	8,764	6,239			7,945	13,586	39,407
68		7,343	10,278	3,175			4,043	6,914	20,053
69		10,468	12,174	8,882			11,310	19,340	56,098
1970							11,161	19,085	55,359
71			7,668	7,611			9,692	16,573	48,072
72			25,602	18,067			23,007	39,342	114,115
73				20,216			25,743	44,021	127,685
74				-2,127			-2,709	-1,509	7,091
75				-7,142			-9,096	-7,896	704
76				-8,246			-10,500	-9,300	-700
77				-9,056			-11,532	-10,332	-1,732
78				8,492		*10,801	10,801	18,470	53,573
79				22,069	23,980		28,103	48,056	139,391
1980				11,656			14,843	25,382	73,621
81							2,930	5,010	14,533
82					-5,545		-4,841	-3,641	7,829

*Adjustment factor for negative values was $8 per head x increased number head, less loss on smaller ranch in 1970's, and $2 per head in 1950's.

*Adjustment factor for positive values was 1.71, based on SW ranch net incomes per head.

Table 5. Foregone Income for 1000 Animal Unit Ranch

Year	C.P.I.[1]	C.P.I. Multiplier[2]	Interest[3] Rate	Pre-BB[4] Total	Present[5] Year Net Income	Bank[6] Balance
		(percent)		(dollars)		
1940	42.0	1.0			8,422	8,422
1941	44.0	1.0476	2.5	9,043	15,852	24,895
1942	48.8	1.1091	2.5	28,301	20,351	48,652
1943	51.8	1.0615	2.5	52,935	12,544	65,479
1944	52.6	1.0154	2.5	68,150	9,434	77,584
1945	53.9	1.0247	2.5	81,488	14,285	95,773
1946	58.4	1.0835	2.5	106,364	14,835	121,199
1947	66.9	1.1455	2.5	142,305	25,341	167,646
1948	72.0	1.0762	2.5	184,931	38,673	223,604
1949	71.3	0.9903	2.5	226,971	40,617	267,588
1950	72.1	1.0112	2.5	277,350	56,207	333,557
1951	77.8	1.0791	2.5	368,940	55,507	424,447
1952	79.5	1.0219	2.5	444,586	253	444,839
1953	80.1	1.0075	2.5	459,380	200	459,580
1954	80.5	1.0049	2.5	473,378	1,071	474,449
1955	80.2	0.9963	2.5	484,511	9,364	493,875
1956	81.4	1.0149	2.5	513,765	-1,489	512,276
1957	84.3	1.0356	3.0	546,428	18,545	564,973
1958	86.6	1.0273	3.0	597,809	50,364	648,173
1959	87.3	1.0081	3.0	673,026	43,901	716,927
1960	88.7	1.0160	3.0	750,250	47,606	797,856
1961	89.6	1.0101	3.0	830,092	54,664	884,756
1962	90.6	1.0112	3.5	925,979	52,135	978,114
1963	91.7	1.0121	3.5	1,024,597	34,011	1,058,608
1964	92.9	1.0131	4.0	1,115,375	8,769	1,124,144
1965	94.5	1.0172	4.0	1,189,219	41,138	1,230,357
1966	97.2	1.0286	4.0	1,316,167	23,858	1,340,025
1967	100.0	1.0288	4.0	1,433,762	39,407	1,473,169
1968	104.2	1.042	4.0	1,596,444	20,053	1,616,497
1969	109.8	1.0537	4.0	1,771,435	56,098	1,827,533
1970	116.3	1.0592	4.5	2,022,831	55,359	2,078,190
1971	121.3	1.0429	4.5	2,264,875	48,072	2,312,947
1972	125.3	1.0329	4.5	2,496,550	114,115	2,610,665
1973	133.1	1.0622	5.0	2,911,701	127,685	3,039,386
1974	147.7	1.1097	5.0	3,541,447	7,091	3,548,538
1975	161.2	1.0914	5.0	4,066,518	704	4,067,222
1976	170.5	1.0577	5.0	4,516,996	-700	4,516,296
1977	181.5	1.0645	5.0	5,047,977	-1,732	5,046,245
1978	195.4	1.0766	5.0	5,704,427	53,573	5,758,000
1979	217.4	1.1126	5.25	6,742,078	139,391	6,882,469

Table 5. Foregone Income for 1000 Animal Unit Ranch (continued)

Year	C.P.I.[1]	C.P.I. Multiplier[2]	Interest Rate[3]	Pre-BB Total[4]	Present Year Net Income[5]	Bank Balance[6]
		(percent)	- - - - - - (dollars) - - - - - - -			
1980	246.8	1.1352	5.25	8,221,966	73,621	8,295,587
1981	269.0	1.0899	5.25	9,516,032	14,533	9,530,565
1982	N/A	N/A	5.25	10,030,920	7,829	10,038,749

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[1] C.P.I. - Consumer Price Index 1967 = 100.0

[2] C.P.I Multiplier = $\frac{\text{C.P.I y}}{\text{C.P.I y-1}}$

[3] Interest Rate (r) based on maximum interest rates payable on time and savings deposits held less than one year [Federal Reserve Bulletin].

[4] Pre-BB Total $_{1941}$ = (Present Year Net Income $_{1940}$) x (C.P.I. Multiplier $_{1941}$) x (r_{1941}).

[5] Based on Calculation of Net Returns to Operator Labor, Management and Total Capital for New Mexico, 1940-82. "Organization, Costs and Returns of Cattle Ranches in Southwest, Southeast, Northeast, Northwest, and Central New Mexico," 1978 or 1979, Bulletins 684, 685, 676, 679 and 678, respectively, Agricultural Experiment Station, New Mexico State University, Las Cruces, 1980 and 1981.

[6] Bank Balance - Pre-BB Total + Present Year Net Income.

Table 6. Net lease payment received for a large ranch unit, (992 AU) 1940-1982

Year	Total Received[1] From Government	Total State[2] Lease Payment	Net Lease Payment Received[3]
1940	N/A	N/A*	N/A
1941	N/A	N/A	N/A
1942	3,874	N/A	3,874
1943	5,811	N/A	5,811
1944	5,811	N/A	5,811
1945	5,891	N/A	5,891
1946	5,970	N/A	5,970
1947	5,968	N/A	5,968
1948	14,873	400	14,473
1949	23,780	400	23,380
1950	23,780	400	23,380
1951	23,780	400	23,380
1952	23,780	400	23,380
1953	23,780	400	23,380
1954	23,780	400	23,380
1955	23,780	400	23,380
1956	23,780	400	23,380
1957	23,780	407	23,373
1958	23,780	407	23,373
1959	23,780	407	23,373
1960	23,780	407	23,373
1961	23,780	407	23,373
1962	23,780	493	23,287
1963	23,780	1,184	22,596
1964	23,780	1,184	22,596
1965	23,780	1,184	22,596
1966	23,780	1,184	22,596
1967	23,780	1,184	22,596
1968	23,780	1,184	22,596
1969	23,780	1,184	22,596
1970	19,480	1,184	18,296
1971	15,180	1,184	13,996
1972	15,180	1,257	13,923
1973	15,180	1,681	13,499
1974	15,180	1,882	13,298
1975	15,180	2,118	13,062
1976	15,180	2,350	12,830
1977	15,180	2,443	12,737
1978	15,180	2,662	12,518
1979	15,180	2,894	12,286

Table 6. Net lease payment received for a large ranch unit, (992 AU) 1940-1982 (continued)

Year	Total Received[1] From Government	Total State[2] Lease Payment	Net Lease Payment Received[3]
1980	13,807	3,131	10,676
1981	12,433	3,327	9,106
1982	12,433	3,527	8,906

[1] Total lease payment received from government based on actual figures from a rancher.

[2] Total State Lease Payment based on actual figures provided by a rancher from 1948 to 1962 and estimated thereafter.

[3] Net Lease Payment Received = Total From Government - Total State Payment.

*Information Not Available

Table 7. Foregone net income for a large ranch unit (992 AU)

Year	CPI Multiplier[1]	Interest Rate[2]	Lease/Fee Pre-Balance[3]	Net Lease/Fee[4]	Lease/Fee Balance[5]	Gross BB Income[6]	Net BB Income[7]
		(percent)	- - - - - - - - - - - - -	-(dollars)-	- - - - - - - - - - - - -		
1940	1.0	2.5	-	N/A	-	8,422	8,422
1941	1.0476	2.5	-	N/A	-	24,895	24,895
1942	1.1091	2.5	-	3,874	3,874	48,652	44,778
1943	1.0615	2.5	4,216	5,811	10,027	65,479	55,452
1944	1.0154	2.5	10,436	5,811	16,247	77,584	61,337
1945	1.0247	2.5	17,063	5,891	22,954	95,773	72,819
1946	1.0835	2.5	25,491	5,970	31,461	121,199	89,738
1947	1.1455	2.5	36,941	5,968	42,909	167,646	124,737
1948	1.0762	2.5	47,333	14,873	62,206	223,604	161,398
1949	0.9903	2.5	63,143	23,380	86,523	267,588	181,065
1950	1.0112	2.5	89,679	23,380	113,059	333,557	220,498
1951	1.0791	2.5	125,052	23,380	148,432	424,447	276,015
1952	1.0219	2.5	155,475	23,380	178,855	444,839	265,984
1953	1.0075	2.5	184,702	23,380	208,082	459,580	251,498
1954	1.0049	2.5	214,329	23,380	237,709	474,449	236,740
1955	0.9963	2.5	242,750	23,380	266,130	493,875	227,745
1956	1.0149	2.5	276,848	23,380	300,228	512,276	212,048
1957	1.0356	3.0	320,244	23,373	343,617	564,973	221,356
1958	1.0273	3.0	363,588	23,373	386,961	648,173	261,212
1959	1.0081	3.0	401,798	23,373	425,171	716,927	291,756
1960	1.0160	3.0	444,933	23,373	468,306	797,856	329,550
1961	1.0101	3.0	487,227	23,373	510,600	884,756	374,156
1962	1.0112	3.5	534,390	23,287	557,677	978,114	420,437
1963	1.0121	3.5	584,180	22,596	606,776	1,058,608	451,832
1964	1.0131	4.0	639,314	22,596	661,910	1,124,144	462,234
1965	1.0172	4.0	700,227	22,596	722,823	1,230,357	507,534
1966	1.0286	4.0	773,236	22,596	795,832	1,340,025	544,193
1967	1.0288	4.0	851,502	22,596	874,098	1,473,169	599,071
1968	1.042	4.0	947,243	22,596	969,839	1,616,497	646,658
1969	1.0537	4.0	1,062,796	22,596	1,085,392	1,827,533	742,141
1970	1.0592	4.5	1,201,382	18,296	1,219,678	2,078,190	858,512
1971	1.0429	4.5	1,329,242	13,996	1,343,238	2,312,947	969,709
1972	1.0329	4.5	1,449,865	13,923	1,463,788	2,610,665	1,146,877
1973	1.0622	5.0	1,632,578	13,499	1,646,077	3,039,386	1,373,309
1974	1.1097	5.0	1,917,984	13,298	1,931,282	3,548,538	1,617,256
1975	1.0914	5.0	2,213,192	13,062	2,226,254	4,067,222	1,840,968
1976	1.0577	5.0	2,472,444	12,830	2,485,274	4,516,296	2,031,022
1977	1.0645	5.0	2,777,853	12,737	2,790,590	5,046,245	2,255,655
1978	1.0766	5.0	3,154,567	12,518	3,167,085	5,758,000	2,590,915
1979	1.1126	5.25	3,708,693	12,286	3,720,979	6,881,469	3,160,490

Table 7. Foregone net income for a large ranch unit (992 AU) (continued)

Year	CPI Multiplier[1]	Interest Rate[2]	Lease/Fee Pre-Balance[3]	Net Lease/Fee[4]	Lease/Fee Balance[5]	Gross BB Income[6]	Net BB Income[7]
		(percent)	- - - - - - - -	- - - - - - - -	-(dollars)-	- - - - - - - -	- - - - - - - -
1980	1.1352	5.25	4,445,818	10,676	4,456,494	8,295,587	3,839,093
1981	1.0899	5.25	5,112,213	9,106	5,121,238	9,530,565	4,409,327
1982	N/A	5.25	5,121,238	8,906	5,130,144	10,038,749	4,908,605

[1] $\text{C.P.I. Multiplier} = \dfrac{\text{C.P.I. } y}{\text{C.P.I. } y\text{-}1}$

[2] Interest Rate(r) based on maximum interest rates payable on time and savings deposits held less than one year [Federal Reserve Bulletin].

[3] Lease/Fee Pre-Balance = [Net Lease Fee$_{1942}$ x (r$_{1943}$) x (C.P.I. Multiplier$_{43}$)].

[4] See Table 3.

[5] Lease/Fee Balance = Lease/Fee Pre-Balance + Net Lease/Fee.

[6] See Table 2.

[7] Net BB Income = Gross BB Income - Lease/Fee Balance.

Table 8. Foregone net income for a medium-size ranch unit (450 AU)

Year	CPI Multiplier[1]	Interest Rate[2]	Lease/Fee Pre-Balance[3]	Net Lease/Fee[4]	Lease/Fee Balance[5]	Gross BB Income[6]	Net BB Income[7]
		(percent)	- - - - - -	- - - - - -	(dollars) - - -	- - - - - -	- - - - - -
1942	1.0	2.5	-	2,807	2,807	13,228	10,421
1943	1.0615	2.5	3,054	2,807	5,861	18,718	12,857
1944	1.0154	2.5	6,100	2,807	8,907	22,733	13,826
1945	1.0247	2.5	9,355	2,807	12,162	28,801	16,638
1946	1.0835	2.5	13,507	3,526	17,033	37,101	20,068
1947	1.1455	2.5	19,999	3,526	23,525	52,298	28,773
1948	1.0762	2.5	25,951	10,827	36,778	71,024	34,246
1949	0.9903	2.5	37,332	10,827	48,159	86,096	37,937
1950	1.0112	2.5	49,916	9,122	59,038	108,615	49,577
1951	1.0791	2.5	65,300	9,122	74,422	139,274	64,852
1952	1.0219	2.5	77,953	9,122	87,075	145,969	58,894
1953	1.0075	2.5	89,922	9,122	99,044	148,440	49,396
1954	1.0049	2.5	102,017	9,122	111,139	151,468	40,329
1955	0.9963	2.5	113,497	9,122	122,619	157,908	35,289
1956	1.0149	2.5	127,557	9,136	136,693	160,278	23,585
1957	1.0356	3.0	145,806	9,136	154,942	177,358	22,416
1958	1.0273	3.0	163,947	9,136	173,083	200,029	26,946
1959	1.0081	3.0	179,719	9,136	188,855	228,025	29,170
1960	1.0160	3.0	197,633	9,136	206,769	255,037	48,268
1961	1.0101	3.0	215,124	9,122	224,246	284,187	59,941
1962	1.0112	3.5	234,694	8,822	243,516	315,402	71,886
1963	1.0121	3.5	255,125	8,801	263,926	342,116	78,190
1964	1.0131	4.0	278,079	8,801	286,880	363,484	76,604
1965	1.0172	4.0	303,466	8,801	312,287	398,709	86,422
1966	1.0286	4.0	334,068	8,801	342,869	434,741	91,872
1967	1.0288	4.0	366,853	8,801	375,654	478,739	103,085
1968	1.042	4.0	407,089	8,801	415,890	525,713	109,823
1969	1.0537	4.0	455,752	8,801	464,553	595,442	130,889
1970	1.0592	4.5	514,197	6,472	520,669	678,158	157,489
1971	1.0429	4.5	567,441	2,936	570,377	755,651	185,274
1972	1.0329	4.5	615,654	2,521	618,175	851,074	232,899
1973	1.0622	5.0	689,456	2,428	691,884	993,233	301,349
1974	1.1097	5.0	806,173	2,325	808,498	1,155,791	347,293
1975	1.0914	5.0	926,515	2,182	928,697	1,316,606	387,909
1976	1.0577	5.0	1,031,396	2,182	1,033,578	1,452,903	419,325
1977	1.0645	5.0	1,155,257	8,540	1,163,797	1,613,614	449,817
1978	1.0766	5.0	1,315,591	2,770	1,318,361	1,842,547	524,186
1979	1.1126	5.25	1,543,815	2,667	1,546,482	2,205,700	659,218

Table 8. Foregone net income for a medium-size ranch unit (450 AU) (continued)

Year	~~CPI~~ Multiplier[1]	Interest Rate[2]	Lease/Fee Pre-Balance[3]	Net Lease/Fee[4]	Lease/Fee Balance[5]	Gross BB Income[6]	Net BB Income[7]
		(percent)	- - - - - - - - - -	- - - - - - - - - -	-(dollars) - - - - - -	- - - - - - - - - -	- - - - - - - - - -
1980	1.1352	5.25	1,847,734	1,103	1,848,837	2,660,748	811,911
1981	1.0899	5.25	2,120,838	3,553	2,124,391	3,057,207	932,816
1982	N/A	5.25	2,124,391	3,828	2,128,219	3,053,566	925,347

[1] C.P.I. Multiplier = $\frac{\text{C.P.I. y}}{\text{C.P.I. y-1}}$

[2] Interest Rate(r) based on maximum interest rates payable on time and savings deposits held less than one year [Federal Reserve Bulletin].

[3] Lease/Fee Pre-Balance = [Net Lease Fee$_{1942}$ x (r$_{1943}$) x (C.P.I. Multiplier$_{43}$)].

[4] See Table 3.

[5] Lease/Fee Balance = Lease/Fee Pre-Balance + Net Lease/Fee.

[6] See Table 2.

[7] Net BB Income = Gross BB Income - Lease/Fee Balance.

Table 9. Total value of a large ranch unit in 1982 based on carrying capacity and value per AU

	State Land	Deeded Land	Federal Land	Total Land	Carrying Capacity (AU)
Ranch 1	4,468	640	23,052	28,160	364
Ranch 2	1,920	640	22,188.8	24,788.80	364
Ranch 3					
Ranch 4	6,317	473	35,878.8	42,668.8	264
Totals	12,705	1,753	81,119.6	95,617.60	992 AU
				(149.40 sections)	

Value per AU[1] in New Mexico Southwest	
(1979)	(1982)
$1,064	$1,654

New Mexico Land Value Index[2]				
1978	1979	1980	1981	1982
103	110	127	142	171

Market Value of a 992 AU Ranch[3]	
(1979)	(1982)[4]
$1,055,488	$1,640,804

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[1] Source: "Grazing-Land Values in New Mexico." Research Report 456, Agricultural Experiment Station, New Mexico State University, 1981.

[2] Source: "Farm Real Estate Market Developments," CD-87, Economic Research Service, U.S. Department of Agricultural, 1982.

[3] Ranch carrying capacity (992 AU) x Value per AU ($1,064)

[4] Market Value 11982 = Market Value 1979 X $\left(\frac{1982\ \text{Index}}{1979\ \text{Index}} \right)$

Table 10. Net Income in Current Dollars in New Mexico from 1940-1982 (1000 A.U.)

Year	C.P.I.	Net Income	Net Income[1] Current Dollars
1940	42.0	8,422	53,941
1941	44.0	15,852	96,913
1942	48.8	20,351	112,181
1943	51.8	12,544	65,142
1944	52.6	9,434	48,246
1945	53.9	14,285	71,292
1946	58.4	14,835	68,332
1947	66.9	25,341	101,894
1948	72.0	38,673	144,487
1949	71.3	40,617	153,239
1950	72.1	56,207	209,704
1951	77.8	55,507	191,920
1952	79.5	253	856
1953	80.1	200	672
1954	80.5	1,071	3,579
1955	80.2	9,364	31,408
1956	81.4	-1,489	-4,921
1957	84.3	18,545	59,177
1958	86.6	50,364	156,442
1959	87.3	43,901	135,273
1960	88.7	47,606	144,374
1961	89.6	54,664	164,114
1962	90.6	52,135	154,794
1963	91.7	34,011	99,771
1964	92.9	8,769	25,391
1965	94.5	41,138	117,102
1966	97.2	23,858	66,027
1967	100.0	39,407	106,005
1968	104.2	20,053	51,768
1969	109.8	56,098	137,435
1970	116.3	55,359	128,044
1971	121.3	48,072	106,607
1972	125.3	114,115	244,988
1973	133.1	127,685	258,056
1974	147.7	7,091	12,915
1975	161.2	704	1,175
1976	170.5	-700	-1,104
1977	181.5	-1,732	-2,567
1978	195.4	53,573	73,752
1979	217.4	139,391	172,476

Table 10. Net Income in Current Dollars in New Mexico from 1940-1982 (1000 A.U.) (continued)

Year	C.P.I.	Net Income	Net Income[1] Current Dollars
1980	246.8	73,621	80,243
1981	269.0	14,533	14,533
1982	294.1[2]	7,829	7,829

Total Net Income Current Dollars (1982)[3]		$3,855,676
Total Number of Years		43
Average Net Income in Current Dollars (1982)[4]		91,802
Value when capitalized at 12 percent[5]	$ 765,015	
Value when capitalized at 10 percent	918,020	
Value when capitalized at 7 5/8 percent	1,203,961	
Value when capitalized at 3 percent	3,060,067	

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[1] (Net Income (in 1982 $) = Net Income Present Year X $\left(\frac{\text{C.P.I. 1982}}{\text{C.P.I. Present Year}}\right)$

[2] Source: Business Week, December 6, 1982 issue.

[3] Sum of Net Incomes from 1940 to 1982 in current 1982 dollars.

[4] Total Net Income divided by Total Number of Years.

[5] Average Net Income divided by capitalization rate.

Table 11. Grazing Fees per head per month in New Mexico, 1940 - 1983

Year	Private Land	State Land*	USFS	BLM
1940	0.71	.03	.15	.05
41	0.72	.03	.16	.05
42	0.92	.03	.19	.05
43	0.90	.03	.23	.05
44	2.01	.03	.26	.05
45	2.61	.03	.25	.05
46	2.82	.03	.27	.05
47	2.56	.03	.31	.08
48	3.15	.03	.40	.08
49	1.31	.03	.49	.08
1950	4.27	.03	.42	.08
51	6.74	.03	.51	.12
52	6.11	.03	.64	.12
53	4.58	.03	.54	.12
54	4.10	.03	.35	.12
55	3.94	.03	.37	.15
56	3.61	.03	.35	.15
57	1.36	.03	.34	.15
58	1.79	.03	.39	.19
59	2.42	.03	.50	.22
1960	2.54	.03	.51	.22
61	2.49	.03	.46	.19
62	2.90	.04	.46	.19
63	3.22	.09	.49	.30
64	3.09	.09	.46	.30
65	3.42	.09	.46	.30
66	3.53	.09	.51	.33
67	3.37	.09	.56	.33
68	3.43	.09	.56	.33
69	3.47	.09	.60	.44
1970	3.62	.09	.60	.44
71	3.40	.09	.78	.64
72	3.92	.10	.80	.66
73	4.10	.13	.91	.78
74	4.40	.15	1.11	1.00
75	4.90	.17	1.11	1.00
76	5.20	.18	1.60	1.51
77	5.80	.19	1.60	1.51
78	5.20	.21	1.60	1.51
79	6.70	.23	2.02	1.89
1980	6.10	.25	2.41	2.36
81	6.98	.26	2.31	2.31
82	NA	.28	1.86	1.86
83	NA	NA	1.40	1.40

*Per acre

Table 12. Annual Average Livestock Prices in New Mexico, 1940 - 1982
(Dollars per hundredweight)

Year	Beef Cattle	Cows*	Steers & Heifers**	Calves	Lambs	Sheep
1940	7.00	4.70	7.40	8.80	7.00	4.20
41	8.40	5.60	8.90	11.20	9.00	5.70
42	10.20	6.80	10.80	12.60	10.60	6.00
43	10.40	6.90	11.00	12.50	10.30	5.80
44	9.40	6.20	10.00	11.80	10.30	6.00
45	10.50	7.00	11.20	13.20	11.10	5.50
46	13.40	9.00	14.20	16.00	14.90	7.40
47	16.60	11.00	17.60	21.10	18.00	8.60
48	21.40	14.20	22.70	23.60	21.10	7.90
49	19.20	12.70	20.40	22.00	21.20	9.30
1950	23.10	15.30	24.50	27.90	25.20	12.00
51	27.70	18.40	29.40	33.50	29.50	15.20
52	21.90	14.50	23.20	23.70	20.50	10.50
53	14.30	9.50	15.20	15.70	15.50	7.00
54	15.50	10.30	16.40	17.50	16.90	5.30
55	14.90	9.90	15.80	18.10	16.80	5.00
56	14.00	9.30	14.80	17.20	16.90	4.80
57	17.30	11.50	18.30	21.30	19.60	6.00
58	23.00	15.20	24.40	30.00	20.70	7.40
59	22.30	14.80	23.60	28.90	17.70	6.30
1960	19.80	14.10	20.90	23.70	15.40	5.70
61	21.40	15.10	22.50	25.80	14.70	4.90
62	21.30	13.30	22.80	26.70	16.00	5.30
63	20.60	13.00	22.30	24.90	15.70	5.70
64	16.80	11.10	18.10	20.20	17.40	6.00
65	20.20	12.70	22.00	22.90	21.60	7.40
66	23.40	15.50	24.70	26.40	24.40	7.80
67	23.20	14.90	24.10	26.40	22.20	7.10
68	24.40	16.40	25.10	28.10	23.90	7.70
69	27.60	19.00	28.50	31.30	27.70	8.10
1970	28.40	20.40	29.10	33.20	26.40	8.80
71	30.90	21.10	31.70	36.80	24.90	7.30
72	35.80	24.20	36.60	43.50	29.00	7.60
73	45.30	31.20	46.20	55.70	34.80	13.30
74	36.70	23.60	38.00	30.90	36.80	12.40
75	39.30	20.30	40.60	27.40	40.90	11.20
76	36.30	23.70	37.30	32.40	45.50	12.10
77	38.50	23.70	39.70	36.70	53.10	13.30
78	52.90	35.90	54.00	60.80	67.90	20.60
79	69.20	48.20	70.60	87.60	71.90	27.80

Table 12. Annual Average Livestock Prices in New Mexico, 1940-1982
(Dollars per hundredweight) (continued)

Year	Beef Cattle	Cows*	Steers & Heifers**	Calves	Lambs	Sheep
1980	64.30	44.60	68.00	77.60	61.90	22.60
81	51.00	39.80	60.80	67.10	51.00	22.70
82	46.40	38.00	57.00	62.80	49.00	19.00

*Estimated for the period 1940-59, based on percent Cows price to Beef Cattle price being 66.3

**Estimated for the period 1940-59, based on percent Steer and Heifers price to Beef Cattle price being 106.0.

Sources: "Agricultural Prices," PR 1 (1-60 to 9-82), Statistical Reporting Service, U.S. Department of Agricultural, 1960 to 1982.

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CONCLUSIONS

Three conclusions can be drawn from this economic analysis of ranch values in the White Sands Missile Range. They are:

1. Just compensation for a ranch in the White Sands Missile Range with a size of 992 animal units should have been $1,640,800 using the leasehold value approach of $1,654 per animal unit. An average of the four capitalization rates used in the income approach yielded a value of $1,500,000 with an average capitalization rate of 8.156%, or almost the same result as the leasehold value result. For other ranch sizes for which detailed analyses have not been made, the leasehold value approach should be used.
2. Standard western ranch appraisal techniques should have been used to determine just compensation, including leasehold values based on the animal unit sizes of the ranches involved.
3. If the leasehold value approach is used and based on ranch animal unit sizes, fair compensation could be determined. Adequate compensation for termination and suspension of grazing permits and leases can be achieved using the leasehold value approach in combination with ranch animal unit sizes.

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Senator Domenici. When you speak of the leasehold value of a grazing permit, as you have described it, you are taking it in place as part of a unit.

Dr. Gray. That is right, as part of the entire ranch unit and it ignores the ownership factor.

Senator Domenici. It ignores the ownership.

Dr. Gray. It ignores the ownership factor. In an earlier table in my report, I show you the value as being about $3,000 if it is entirely owned and that is 1979, and in 1979 if it is almost all Federal it is around $1,000.

Senator Domenici. If that permit land is part of a unit and part of that unit has water and the leasehold does not. And if the water is on fee or State land and the market indicates that selling it as a unit, do you look at what it is worth, what that permit land is worth in the manner you described?

Dr. Gray. Yes, in the context of the whole ranch unit.

Senator Domenici. Correct.

Dr. Gray. Yes, sir. As a matter of fact ranchers try to develop water on their own land to avoid problems if their permit is cut or lost.

Senator Domenici. And you get into big problems if the entity attempting to appraise starts breaking it up into its ownership units, do you not?

Dr. Gray. Yes, it does. I do not think a ranch is a unit. It is like dismembering the body and trying to value its parts. It just has to be considered a ranch rather than individual parcels.

Senator Domenici. You are telling us that you found in the marketplace, regardless of what the legal definition of the grazing permit was, is not property and it is not a right, but nonetheless it has these kind of values in the marketplace and you have been able to ascertain that. These are the basis appraisal techniques that you think apply to the land out there in our State, such as lands here in question?

Dr. Gray. Yes, that is correct.

Senator Domenici. Jeff, do you have any questions?

Senator Bingaman. No, I do not.

Senator Domenici. We are going to recess. There is a vote on and that is what all those lights mean. We have about 3 minutes to get there, but we will back as soon as we can.

[Whereupon, a recess was taken.]

Senator Domenici. I understand, Dr. Gray, you were finished. Is that not correct?

Dr. Gray. Sir, I was.

Senator Domenici. We have made your full testimony a part of the record. If we have some additional questions from the Senators, we will submit them and ask you to respond in 2 weeks or so for the record.

Dr. Gray. Thank you.

Senator Domenici. Now, we are going to hear from Jim Cannon, Vice President—credit, Federal Land Bank of Wichita, Wichita, Kans.

STATEMENT OF JAMES D. CANNON, VICE PRESIDENT—CREDIT, FEDERAL LAND BANK OF WICHITA

Mr. CANNON. I am happy to be here before this group. The Federal Land Bank of Wichita is the major real estate lender in the States of Kansas, Oklahoma, Colorado and New Mexico. We make farm and ranch loans. The bank's credit department is responsible for real estate appraisal standards and that is the department that I take care of.

I have been involved in ranch appraisal activities for a little over 18 years. I am a member of the American Society of Farm Managers and Rural Appraisers and hold the ARA professional appraisal designation. I am also a member of the New Mexico Society.

My experience in analyzing numerous ranch sales supports the fact that buyers in the marketplace pay for nonfee lands when they purchase ranches. The analysis of current sales indicates that that value is in the neighborhood of one-third to one-fourth of the price paid for all deeded lands or all deeded ranches, which I think is in the line with what Dr. Gray was testifying to.

The land bank reflects the value of nonfee lands in our appraisals and we secure such lands with various types of assignments that are recognized by the Federal and State agencies administering these properties. The practice of recognizing these nonfee lands in appraisals has been in existence since the late 1930's in the Wichita Land Bank.

Collateral is one of the five factors that is considered in making credit decisions. Prior to granting a credit, the real estate to be used as collateral is appraised to determine its collateral value. The appraisal is conducted according to a standard methodology recognized by the appraisal profession.

There are three generally accepted appraisal approaches used by professional appraisers: The comparable sales approach, the cost approach, and the income approach. These are the same three approaches that are used by land bank appraisers. When good comparable sales are available, we place major emphasis on that comparable sales approach. In such cases, it may be the only approach we use in supporting our appraised value on ranches. Whenever there is not a lot of sales available is when we get involved in putting some heavier reliance on the other two approaches.

Since that is the majority of cases, the way we value our ranches, I will go ahead and restrict my remarks to that comparable sales approach. In using the comparable sales approach, the appraiser locates sales of ranches that are similar to the property being appraised. I will refer to the sale of similar ranches in the same general market area as comparables and to the ranch being appraised as the subject.

Comparables must be bona fide arm's length transactions between knowledgeable buyers and sellers who are under no pressures to buy or sell. Thus, these comparables should represent market value.

Once the appraiser has located comparable ranch sales, they are analyzed or broken down into their components.

Ranches in the Western States are composed of several types of land resources. Many ranches will have fee-owned land or deeded land that along with State leased land and stock water rights serve as base property and controls the grazing on a larger acreage of Federal land. These Federal lands are administered by the Bureau of Land Management and the Forest Service. I will refer to the Federal and State land controlled through leases and permits as nonfee lands.

When a sale is analyzed, the contribution of each land resource to the total sale price is estimated. In other words, we try to break it down and say what was the contribution of each land resource to that total sale price. We frequently refer to ranches as being a certain percent deeded, which means that a percentage of its carrying capacity is on fee-owned land.

The unit utilized in analyzing and later comparing sales to the subject ranch is the livestock carrying capacity. This has been testified to by people in the past. Animal unit month or AUM is the common measure of livestock carrying capacity. An AUM is the amount of forage necessary to sustain a 1,000-pound cow for 1 month. Twelve AUM's equals one animal unit on 1 year-long basis, sometimes as a cow year long or CYL. This CYL is the common unit of comparison utilized in appraising ranches with nonfee lands.

When we are appraising ranches in Kansas and Oklahoma with fee lands, they are usually appraised on a per acre basis. The ranches that have leases usually always are appraised on a cow year long basis.

In the market area, there will frequently be sales of ranches that range from mostly deeded ranches to those comprised of mostly nonfee lands. We have ranches in New Mexico that were 100 percent deeded. We have ranches that 99.5 percent of their livestock capacity is on nonfee owned lands. By isolating sales that are almost entirely one type of land resource, an appraiser can estimate the value of each land resource.

After comparable sales are analyzed they are compared to the subject property to indicate an appraised value. Adjustments are made to each comparable sale for the differences between the comparable and the subject. One important difference that must be adjusted for with each comparable is the percentage of nonfee lands.

In other words, if you have a comparable that is 30 percent deeded, you really cannot use it as a comparable for a ranch that is 80 or 90 percent deeded. So when we are trying to find comparables, we try to find them that had about the same percentage in deeded and leased lands as the property we are trying to appraise.

Senator DOMENICI. Why would the property have a different value if it had the same grazing capacity?

Mr. CANNON. Let me see if I understand your question.

Senator DOMENICI. Let's take your last example. You said you would not compare equally sized ranches for comparable purposes in an appraisal if one had 80 percent deeded and the other had 10 percent deeded, but the same capacity I am assuming in my question.

Mr. CANNON. If you took two ranches, each a 1,000-head ranch, if one was 80 and one was 10, I would use them as a comp. That is too close.

Senator DOMENICI. No, 80.

Mr. CANNON. As I stated earlier, leases, nonfee lands will sell for about one-fourth to one-third the value of deeded land.

Senator DOMENICI. So what you are telling the committee is that regardless of what one calls the permit, a right, privilege or whatever, the marketplace has accommodated it and given it a real value.

Mr. CANNON. No question about it.

Senator DOMENICI. So for those who are wondering whether it is excessive in value, you are saying the marketplace also takes into account that while it is worth a lot, it is worth less than absolute ownership.

Mr. CANNON. Right, and there are several reasons for that. There is the reason that the control of it is in the hands of a Federal or a State agent. You do not have free control, you cannot do anything you want to with it. Somebody is telling you what to do with it. You have got to keep the windmills, the wells up yourself. If you owned the land, you would have those on there, so to speak.

Yet, you cannot enjoy the appreciation as much in leases as you could in deeded land, plus there is always the danger that someone will come in and lower your capacity sometime down the road and that is a danger that is recognized in the marketplace, but still your listing value is given to those leases.

Senator DOMENICI. I wonder if anyone knows or has used these court cases, and I have only read a couple of summaries. Has that argument been made to the courts when they are trying to decide, well, it is only a privilege, because it is a permit? Has the argument been made that even if it is, it is not worth as much as the fee land, but nonetheless the market is paying a substantial amount of the value, whether it is a permit or a privilege or a right?

Do you happen to know?

Mr. CANNON. I would not be able to answer that, because I have not been involved in any of the court actions.

Mr. JONES. I can answer that, Senator.

Senator DOMENICI. This is Bob Jones, for the record.

Mr. JONES. Yes, sir. As I understand it, the court took the position that the Federal Government does in other cases, not in the State taxing but in other cases, that that permit has no value and they accepted that and so, Senator, because of that then it would not be considered in the value of the ranches owned in the White Sands Missile Range.

I would have a comment to make when my turn comes up about that and I guess I should hold—I could give it to you now or hold it to then.

Senator DOMENICI. Let's just finish. He is just about finished. Are you not?

Mr. CANNON. Yes. Should I just go ahead?

Senator DOMENICI. Yes; why don't you complete your statement.

Mr. CANNON. Just to kind of end our discussion on the comparable sales approach, we try to use at least three or four comparable sales in each appraisal and indicate a final value and that is the way we come up with appraised value. One other thing that I wanted to mention that is not in my remarks but I did want to mention it, we have got to recognize that ranches, particularly in western and southwestern New Mexico they were settled by people filing on small tracts where water is that are not blocked up. And really that deeded land has not got much of a use unless it is connected with leases. And the ranching industry there is made up of deeded, State lease, State purchase, BLM and in some cases forest permits and you can take any one of those away and you have really done some damage to the ranching unit.

So I appreciate the opportunity to testiy and any further questions, feel free to ask me.

Senator DOMENICI. Do you know in your experience whether the IRS takes into account permit values in State tax computations?

Mr. CANNON. No; I do not.

Senator DOMENICI. Could I ask the staff, do we have as a matter of official response from the IRS, have we asked them that so we have it on the record? I think we ought to do that, see whom we ask and get them to tell us about it.

Bob, we have another vote, but we have 7 or 8 minutes before we have to run off. So let us start with you or do you want to go with Reuben?

Mr. JONES. I think Reuben.

Senator DOMENICI. When we come back, you will be next.

STATEMENT OF REUBEN E. PANKEY, NEW MEXICO CATTLE-GROWERS ASSOCIATION, TRUTH OR CONSEQUENCES, N. MEX.

Mr. PANKEY. Senator, I will make mine short. My name is Reuben Pankey. I am a rancher from Sierra County.

Permit value has been a subject of misunderstanding for many years. This value began many years ago when the first permit changed ownership. This was one of the incentives that caused people to migrate and settle the west. Today you have before you many descendants of these pioneer people who did just that.

As is generally recognized, a homestead in the arid West could not support a family without the free use of public domain for grazing to supplement grazing on the limited amount of private land available. In some cases, public domain grazing was the whole source of income.

Many of you know western history better than I and have read and heard of the range wars over the use of this land. All was not exactly friendly about who used what spring or waterhole.

With the establishment of the U.S. Forest Service at the turn of the century, control began on the use of public lands. The first permits were issued in 1906 by the Secretary of Agriculture. This started management on the national forest lands.

The first recognition of permit value by a governmental agency was when the U.S. Forest Service recognized the transfer of permits from the holder of base property to a seller. In this treatment of the transfer of permits, the interdependency of various owners of land was established, by this I mean fee simple, State and Federal lands. One had less value without the other.

Previous to the establishment of forests and prior to the passage of the Taylor Grazing Act for the BLM, the use of public domain for grazing was recognized by all forms of government and the cattle or livestock on such land were subject to taxation. By the way they still are.

This progressed through the years on that basis. In 1934, the Taylor Grazing Act was established. This gave the predecessor agency of the Bureau of Land Management congressional authority, through the Secretary of the Interior, to recognize permits and also to control over them. This started management on the public domain under BLM jurisdiction.

Also section 3 of the Taylor Grazing Act clearly recognizes the question of permit value and I have in here an attachment of the Taylor Grazing Act, section 3, the last part of it, that clearly spells out their recognition of permit value in that it refers to the prohibition to lower the numbers of a permit when it is placed for collateral as a loan. This is, in our estimation, absolute recognition of permit value per se, because it has a dollar figure attached to it.

Attached is a letter from the Federal land bank and you already have it through the testimony of a previous man.

Now, I have here all that—all that permit value is, is the economic value of the harvest of the available forage for livestock use.

It is impossible to acquire and have title to grass. If grass is not used it disappears.

Also attached is a list of some recent ranch sales in New Mexico. I have a few of these that were submitted by qualified appraisers that will show you some of the values on today's ranch markets and they vary from 2,000 cattle year long [CYL], and one is 3,050 on a forest permit. Another one is 2,254 CYL, that is in Lincoln County, not very far from White Sands. Two here are from a county you heard referred to earlier. These are sales that can be verified and one of them is cattle year long of $1,580 per unit and there is another one that goes to a high of $2,160.

Most of these are sales that are in the immediate area of the White Sands and can be verified.

I would also like to call your attention to a report prepared by the Army at the White Sands Missile Range in 1970. That is attachment D. That has some very interesting information in it. I would refer you, when you have time, to read paragraphs 6 and 7 and 8 in the analysis of the White Sands Missile Range Exclusive Use Real Estate.

This document was given to me by a friend of yours, Phil Harvey, who had it rat-holed in his files for years and he sent me a copy last night. I think your staff, Senator, will be extremely interested in what is contained in this document. One of the previous testifiers said they did not have any record of many of the transactions and so forth that were, by the White Sands, and here are numbers, permit numbers, lease numbers, and everything else and their names.

I think this document might be quite revealing when it is studied in depth and I did not have a chance to do that and I apologize for my lack of intimate knowledge of this document. But I think you will find it interesting.

That concludes my statement. Thank you very much for permitting me to appear.

[Attachments to the statement of Mr. Pankey follow:]

ATTACHMENT A

THE TAYLOR GRAZING ACT
As Amended and Supplemented
(43 U.S.C. §§ 315, et seq.)

AN ACT

To stop injury to the public grazing lands by preventing overgrazing and soil deterioration; to provide for their orderly use, improvement, and development; to stabilize the livestock industry dependent upon the public range; and for other purposes. Approved June 28, 1934 (48 Stat. 1269), as amended June 26, 1936 (49 Stat. 1976), July 14, 1939 (53 Stat. 1002), July 30, 1947 (61 Stat. 630), August 6, 1947 (61 Stat. 790), June 19, 1948 (62 Stat. 533), and May 28, 1954 (68 Stat. 151).

Be It Enacted By The Senate And House Of Representatives Of The United States Of America In Congress Assembled, That in order to promote the highest use of public lands pending its final disposal, the Secretary of the Interior is authorized, in his discretion, by order to establish grazing districts or additions thereto and/or to modify the boundaries thereof of vacant, unappropriated, and unreserved lands from any part of the public domain of the United States (exclusive of Alaska), which are not in national forests, national parks and monuments, Indian reservations, revested Oregon and California Railroad grant lands, or revested Coos Bay Wagon Road grant lands, and which in his opinion are chiefly valuable for grazing and raising forage crops; PROVIDED, That no lands withdrawn or reserved for any other purpose shall be included in any such district except with the approval of the head of the department having jurisdiction thereof. Nothing in this Act shall be construed in any way to diminish, restrict, or impair any right which has been heretofore or may be hereafter initiated under existing law validly affecting the public lands, and which is maintained pursuant to such law except as otherwise expressly provided in this Act, not to affect any land heretofore or hereafter surveyed which, except for the provisions of this Act, nor to affect any land heretofore or herenor as limiting or restricting the power or authority of any State as to matters within its jurisdiction. Whenever any grazing district is established pursuant to this Act, the Secretary shall grant to owners of land adjacent to such district, upon application of any such owner, such rights-of-way over the lands included in such district for stock driving purposes as may be necessary for the convenient access by any such owner to marketing facilities or to lands not within such district owned by such person or upon which such person has stockgrazing rights. Neither this Act nor the Act of December 29, 1916 (39 Stat. 862; U.S.C., title 43, secs. 291 and following), commonly known as the "Stock Raising Homestead Act," shall be construed as limiting the authority or policy of Congress or the President to include in national forests public lands of the character described in section 24 of the Act of March 3, 1891 (26 Stat. 1103; U.S.C., title 16, sec. 471), as amended, for the purposes set forth in the Act of June 4, 1897 (30 Stat. 35; U.S.C., title 16, sec. 475), or such other purposes as Congress may specify. Before grazing districts are created in any State as herein provided, a hearing shall be held in the State, after public notice thereof shall have been given, at such location convenient for the attendance of State officials, and the settlers, residents, and livestock owners of the vicinity, as may be determined by the Secretary of the Interior. No such district shall be established until the expiration of ninety days after such notice shall have been given, nor until twenty days after such hearing shall be held: PROVIDED, HOWEVER, That the publication of such notice shall have the effect of withdrawing all public lands within the exterior boundary of such proposed grazing district from all forms of entry or settlement. Nothing in this Act shall be construed as in any way altering or restricting the right to hunt or fish within a grazing district in accordance with the laws of the United States or of any State, or as vesting in any permittee any right whatsoever to interfere with hunting or fishing within a grazing district. (43 U.S.C., section 315)

SEC. 2. The Secretary of the Interior shall make provision for the protection, administration, regulation, and improvement of such grazing districts as may be created under the authority of the foregoing section, and he shall make such rules and regulations and establish such service, enter into such cooperative agreements, and do any and all things necessary to accomplish the purposes of this Act and to insure the objects of such grazing districts, namely to regulate their occupancy and use, to preserve the land and its resources from destruction or unnecessary injury, to provide for the orderly use, improvement, and development of the range; and the Secretary of the Interior is authorized to continue the study of erosion and flood control and to perform such work as may be necessary amply to protect and rehabilitate the areas subject to the provisions of this Act, through such funds as may be made available for that purpose, and any willful violation of the provisions of this Act or of such rules and regulations thereunder after actual notice thereof shall be punishable by a fine of not more than $500. (43 U.S.C., sec. 315a)

SEC. 3. The Secretary of the Interior is authorized to issue or cause to be issued permits to graze livestock on such grazing districts to such bona fide settlers, residents, and other stock owners as under his rules and regulations are entitled to participate in the use of the range, upon the payment annually of reasonable fees in each case to be fixed or determined from time to time, and in fixing the amount of such fees the Secretary of the Interior shall take into account the extent to which such districts yield public benefits over and above those accruing to the users of the forage resources for livestock purposes. Such fees shall consist of a grazing fee for the use of the range, and a range-improvement fee which, when appropriated by the Congress, shall be available until expended solely for the construction, purchase, or maintenance of range improvement. Grazing permits shall be issued only to citizens of the United States or to those who have filed the necessary declarations of intention to become such, as required by the naturalization laws, and to groups, associations, or corporations authorized to conduct business under the laws of the State in which the grazing district is located. Preference shall be given in the issuance of grazing permits to those within or near a district who are landowners engaged in the livestock business, bona fide occupants or settlers, or owners of water or water rights, as may be necessary to permit the proper use of lands, water, or water rights owned, occupied, or leased by them, except that until July 1, 1935, no preference shall be given in the issuance of such permits to any such owner, occupant, or settler, whose rights were acquired between January 1, 1934, and December 31, 1934, both dates inclusive, except that no permittee complying with the rules and regulations laid down by the Secretary of the Interior shall be denied the renewal of such a permit, if such denial will impair the value of the grazing unit of the permittee, when such unit is pledged as security for any bona fide loan. Such permits shall be for a period of not more than ten years, subject to the preference right of the permittees to renewal in the discretion of the Secretary of the Interior, who shall specify from time to time numbers of stock and seasons of use. During periods of range depletion due to severe drought or other natural causes, or in case of a general epidemic of disease, during the life of the permit, the Secretary of the Interior is authorized, in his discretion to remit, reduce, refund in whole or in part, or authorize postponement of payment of grazing fees for such depletion period so long as the emergency exists: PROVIDED FURTHER, That nothing in this Act shall be construed or administered in any way to diminish or impair any right to the posession and use of water for mining, agriculture, manufacturing, or other purposes which has heretofore vested or accrued under existing law validly affecting the public lands or which may be hereafter initiated or acquired and maintained in accordance with such law. So far as consistent with the purposes and provisions of this Act, grazing privileges recognized and acknowledged shall be adequately safeguarded, but the creation of a grazing district or the issuance of a permit pursuant to the provisions of this Act shall not create any right, title, interest, or estate in or to the lands. (43 U.S.C., sec. 315b)

ATTACHMENT B

Federal Land Bank Association of Western New Mexico

3109 Carlisle Boulevard N.E.
Albuquerque, New Mexico 87110-1695
Telephone (505) 884-1048

November 10, 1983

Mr. Reuben E. Pankey
Box 672
Truth or Consequences, NM 87901

Dear Mr. Pankey:

In response to your request of November 10, 1983, we submit the following regarding the Federal Land Bank position concerning Federal and New Mexico State leases in New Mexico as of November, 1983.

This communication is not to be construed as a statement of past or future lending position on said leases as our policies may vary as deemed appropriate to protect the Federal Land Bank's organizational interest.

The appraised value of Federal Land Bank security is determined by the activities of the market place. Analysis of many ranch sales indicate that these leases offer a marketable value. Ranches having even a high percentage of leased land have sold and resold to the extent that there was a documentable trade or sale value. When Federal Land Bank security involves a ranch with grazing permits as a part of the unit, the value of the unit is determined by using comparable sales of other ranch units that contain grazing permits. When a loan is made on a ranch with grazing permits, the deeded land is mortgaged to the Federal Land Bank and a collateral assignment on the grazing permits is executed by the permittee to the Federal Land Bank subject to the approval of the leasing agency.

Currently Federal and New Mexico State leases offer an acceptable form of security for Federal Land Bank financing and accordingly we do offer Federal Land Bank financing for these properties provided other credit factors are acceptable.

We hope that this answers your questions. Please feel free to contact us anytime we may be of assistance.

Sincerely,

Dale C. McEachern

Dale C. McEachern
Vice President

DCM:m

ATTACHMENT C

Appraisals of recent New Mexico ranch sales

Report prepared by M. J. Coyle, certified real
property appraiser

M.J. COYLE
Experience and Background

EDUCATION

New Mexico State University - B.S., Animal Production

MEMBERSHIP

American Society of Farm Managers and Rural Appraisers

International Right-of-Way Association

Society for Range Management

American Society of Agronomy

Society of Soil Science

International Society of Soil Science

Senior Certified Real Property Appraiser,
National Association of Certified Real Property Appraisers

HISTORY

Ranch Manager
Padlock Ranches, Gillette, Wyoming

Ranch Manager
Meadow Creek Ranch, Upton, Wyoming

Ranch Manager
H-V Ranches, New Mexico and Arizona

Resident Manager
Carver Tropical Products, Belize, C.A.

Rural Appraiser
Gillentine & Keever, Santa Fe, New Mexico / 1977 to 1979

Rural Appraiser
Centerfire Property Company / Present

EDUCATIONAL COURSES

Advanced Ranch Appraisal - Boise, Idaho ASFRA

Rural Valuation - Santa Fe, New Mexico, American Institute

Water Rights - Salt Lake City, Utah - American Institute

Petroleum Land Man Course - 1982 - Dallas, Texas

TERRITORY

Continental Divide, Mexico and Central America, Carribean

Qualified Witness

M.J. Coyle
Experience and Background

PRIOR TESTIMONY/QUALIFICATIONS AS EXPERT WITNESS (Ranch Appraisal) IN NEW MEXICO COURTS

Sarah McCray vs. Mobil Oil Co., Gallup, New Mexico

Boyett vs. Boyett, Albuquerque, New Mexico

Jackson Creek Cattle Company, Roswell, New Mexico

OTHER JURISDICTIONS

Arbitration Hearing
Addee vs. Tapp, Albuquerque, New Mexico

OTHER ADMINISTRATIVE TYPE PROCEEDINGS WHEREIN EXPERT TESTIMONY HAS BEEN GIVEN:

Rainwater vs. Department of Interior
Albuquerque, New Mexico / Judge Meacham

Rainwater vs. Department of Interior
Truth or Consequences, New Mexico

Broiller vs. U.S. Department of Agriculture
Albuquerque, New Mexico and Washington, D.C.

Weldon McKinley vs. Department of Interior
Socorro, New Mexico

United States vs. Barbarita Baca
Las Cruces, New Mexico

United States vs. W.F. Martin
Las Cruces, New Mexico

Effect of Land Tenure on New Mexico Ranch Values

For the most part, New Mexico ranches are made up of deeded land, New Mexico State Grazing leases, Federal Forest lands, and Taylor Grazing lands. All deeded ranch land is the most desirable tenure. These good deeded ranches are moving at $3,000 an animal unit and up. The next most desirable tenure is a mixture of deeded and New Mexico State leases. The market on this secure tenure is $3,000 to $4,000 an animal unit, depending on the percentage of deeded land. Forest service ranches with a small amount of base deeded land are the next most desirable tenure moving from $1250 to $3,000 an animal unit on a cow yearlong basis. Overall the permitted numbers are fairly secure, as they went through their reduction in numbers 10-15 years ago. A forest service permit cannot be sublet and is administered by the forest service. The lessee operates this type of ranch under management plans designed by the forest service.

A Bureau of Land Management ranch, Section 3 permit, is the least desirable tenure and reflects this in the marketplace. Recent sales run from a high of $2,000 an animal unit down to $1250 an animal unit, a number have brought $1650 an animal unit. These ranches can be sublet with approval of the State Director. The problem that bothers most people about this tenure is that you have no privacy, they are revokable, they are overadministered and many are threatened with drastic reductions in numbers. They are the most affordable ranch on the market today.

All ranches continue to escalate in price due to a combination of inflation and appreciation. In 1980 to 1983 this amounted to 12% per year.

In 1982 it was a rare ranch that broke even; in 1983 cost of production exceeded gross sales in almost all cases.

Most ranches purchased in New Mexico are being bought with non-agricultural capital. For example: Paragon , a subsidiary of Public Service Company of New Mexico has acquired large ranch holdings including such ranches as Conchas, Mayer, Black Lake and Mangus. Pacific Western Cattle Company, the ag-subsidiary of Phelps Dodge has acquired extensive ranch holdings all of the ranches purchased by Indians, will never come back on the market putting more competition on the remaining ranches.

What motivates buyers to purchase a New Mexico Ranch.

1. Tax Shelters
2. Land is more secure than dollars
3. Inherent tax shelters
4. Way of life
5. Optimism that the cow business will some day improve.
6. Sunbelt attraction

Animal Unit Defined

An animal unit is a measure of forage, it is that amount of forage required to sustain a 100# mother cow and her progeny until weaned in a healthy, thrifty condition..

SALE NO. 1

RANCH SALES

Seller: Four Hills Allotment #1259
Lawrence Abraham

Buyer: Robert Jolley

Date: October 1983

Place of Record: Socorro County

Consideration: $68,000

Confirmed: BLM office, Socorro
Tom Sidwell

Location: T.2S., R.1E.

Acreage by Types of Control: Terms 3/1/83 to 2/28/83
40 acres deeded and base water.
88% Federal land

Analysis of Sale: $68,000 total price
$12,000 down, balance REC at 12½% for ten years.

Estimated Carrying Capacity: 34 CYL, 3.4 head/section

Price Paid per CYL: $2,000

Price Paid per AUM: $167

Comments: No improvements except well and fences. Every low carrying capacity, handy to town, smaller hobby type. Start up ranch.

SALE NO. 5

RANCH SALES Bar A Ranch

Seller: Sullivan Brothers

Buyer: LB "Bud" Maytag

Date: August 10, 1983

Place of Record: Socorro, New Mexico Bk.____ Page_____

Consideration: $915,000

Confirmed: Sullivan and Maytag, September 23, 1983

Location: Monticello, N.M., T. 8-9S., R. 7W.

Acreage by Types of Control:

3,800	deeded acres	8.0%
600	N.M. Lease	1.2%
480	BLM	1.1%
40,000	Forest	89.0%
44,880	± acres total (70 Sections)	100.0%

Analysis of Sale:

$500,000 cash at closing
$415,000 balance, $64,665.34
10 equal annual installments

Estimated Carrying Capacity: 300 cyl

Price Paid per CYL: $3,050

Price Paid per AUM: $254.17

Comments:

Little irrigated land off Monticello Ditch. There are 26 acres of irrigated land.

[illegible] ________

RANCH SALES

Seller:	Jeffrey Brollier
Buyer:	Eddie Sanchez
Date:	January 15, 1980
Place of Record:	Lincoln County, WD, Bk. 89, Pg. 783
Consideration:	$550,000
Confirmed:	Jeffrey Brollier
Location:	SW Corona, Lincoln County, New Mexico T.1S., R.11-12 E., N.M.P.M.
Acreage by Types of Control:	320 acres deeded 2% 17,500 acres Forest 98% 17,820 total acres
Analysis of Sale:	Forest Service Land - 17,500 ac. @ $20.86 = $365,000 Deeded Land - 300 ac. @ $90 = 28,800 Improvements 156,000 $549,800 Improvements: 3000 sq. ft. house, 1800 sq. ft. bunkhouse, shop, garage, corrals, barn. Time adjusted - $2930
Estimated Carrying Capacity:	Forest Permit - 244
Price Paid per CYL:	$2,254.10
Price Paid per AUM:	$187.84
Comments:	

SALE NO. [illegible]

RANCH SALES

Seller: Ralph and Jacqueline Rainwater

Buyer: Rod and Sandra Hill

Date: December 14, 1981.

Place of Record: Sierra County, WD, Bk. 46, Pgs. 648-649

Consideration: $250,000

Confirmed: Ralph Rainwater

Location: South of Engle, New Mexico in the vicinity of Cutter, New Mexico. Sierra County, T.14S., R.2W., Improvements: Fenced, 4 wells, 3 corrals, 3 tanks, no buildings.

Acreage by Types of Control:

1,640	acres deeded	12%
2,080	acres N.M. State Lease	13%
12,086	acres BLM	75%

15,806 acres total or 24.7 Sections

Analysis of Sale: Cash Sale
Buyers felt they paid $110 a deeded acre; seller agrees.

Time adjusted NMSU Rangeland Index

$$1580 \times \frac{171}{110} = \$2449/\text{AU}$$

Estimated Carrying Capacity: Set by BLM at 159 cyl or 6.5 head per section

Price Paid per CYL: $1,580

Price Paid per AUM: $131.66

Comments: Identical forage, soils, improvements. No lava flow.

RANCH SALES

Seller: Ralph & Jacqueline Rainwater

Buyer: Raye and Clara Howe

Date: December 14, 1981.

Place of Record: Sierra County, WD, Bk. 46, Pg. 650-651

Consideration: $121,000

Confirmed: Raye Howe

Location: South of Engle, N.M. in Cutter, New Mexico area in Sierra County. T.14S., R.2W. Improvements: Fenced, 1 well, 1 mile pipeline, small corral.

Acreage by Types of Control:

900	acres deeded land	19.3%
4,220	acres BLM	80.7%
5,120	acres total or 8 Sections	

Analysis of Sale: Cash sale. Raye Howe felt he paid $110 a deeded acre x 900 - $99,000 and $22,000 for BLM acres.

Time adjusted $3348

Estimated Carrying Capacity: Set by BLM at 56 cyl (7 head per section)

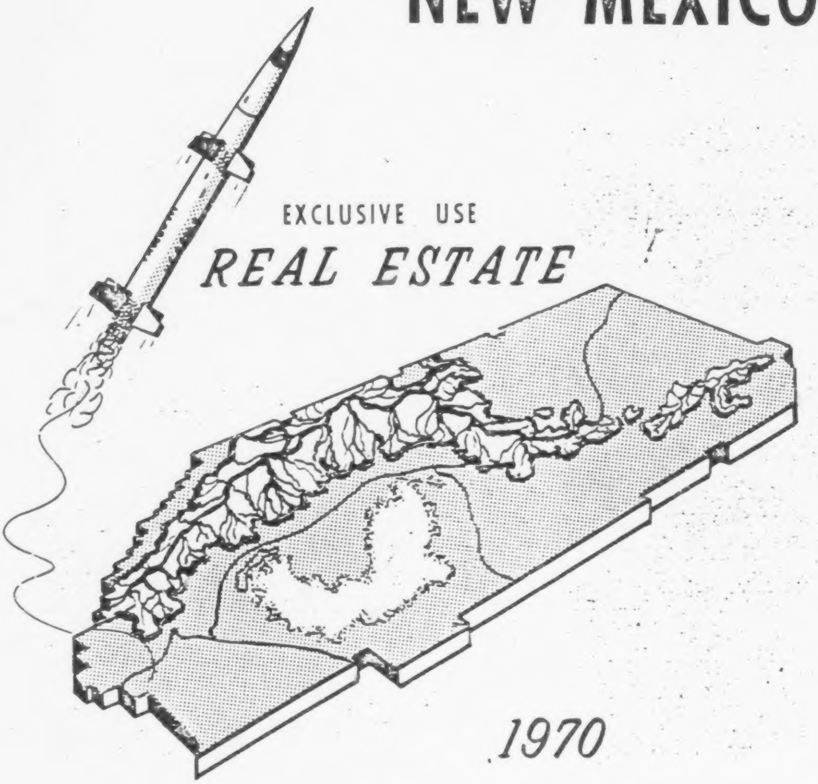
Price Paid per CYL: $2,160

Price Paid per AUM: $180

Comments: Is south of the subject and similar in every way. The 830 subject AUMS at $180 would yield a subject value of $149,400. This sale had range improvements only.

ATTACHMENT D

WHITE SANDS MISSILE RANGE, NEW MEXICO



EXCLUSIVE USE

REAL ESTATE

1970

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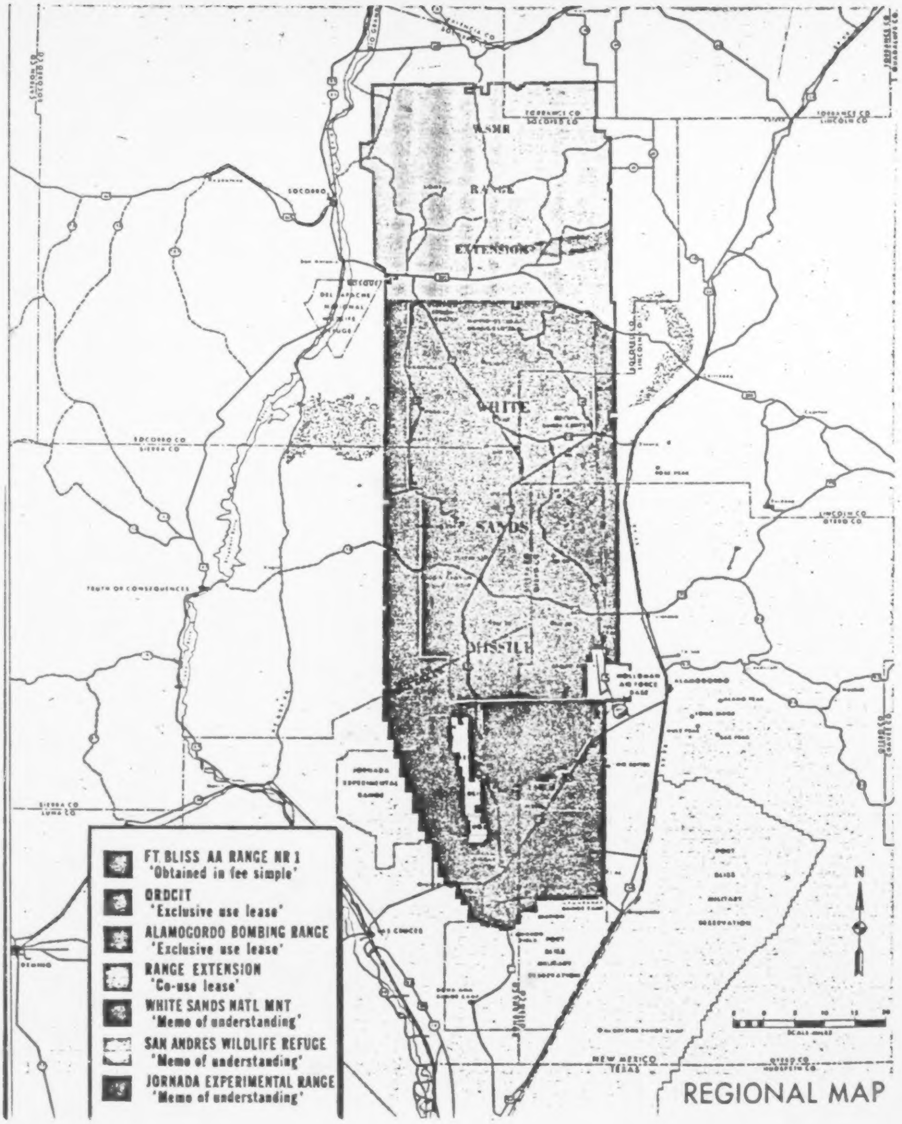
1. Photograph map of White Sands Missile Range
2. Narrative - White Sands Missile Range Real Estate
3. Chart showing land status, WSMR Proper
4. Narrative - Analysis, WSMR exclusive - use real estate
5. Photograph map of all areas utilized by WSMR
6. Narrative - WSMR Cooperative - Use real estate
7. Chart showing land status of WSMR off-range areas
8. Appendix A - Tabulation of leases, ORDCIT Area and Alamogordo Bombing Range
9. Appendix B - Zone maps of WSMR proper showing real estate status
10. Appendix C - Photographs of various ranch headquarters within WSMR


WSMR
RANGE
EXTENSION
WHITE
SANDS
MISSILE
SOCORRO
DEL APACHE NATIONAL WILDLIFE REFUGE
SOCORRO CO
SIERRA CO
TRUTH OR CONSEQUENCES
SIERRA CO
LUNA CO
TORRANCE CO
SOCORRO CO
LINCOLN CO
OTERO CO
HOLLOMAN AIR FORCE BASE
ALAMOGORDO
JORNADA EXPERIMENTAL RANGE
LAS CRUCES
FORT BLISS MILITARY RESERVATION
NEW MEXICO
TEXAS
N
FT BLISS AA RANGE NR 1 'Obtained in fee simple'
ORDCIT 'Exclusive use lease'
ALAMOGORDO BOMBING RANGE 'Exclusive use lease'
RANGE EXTENSION 'Co-use lease'
WHITE SANDS NATL MNT 'Memo of understanding'
SAN ANDRES WILDLIFE REFUGE 'Memo of understanding'
JORNADA EXPERIMENTAL RANGE 'Memo of understanding'
REGIONAL MAP

WHITE SANDS MISSILE RANGE
REAL ESTATE

1. The White Sands Missile Range, named White Sands Proving Ground prior to redesignation by Department of the Army General Order 14, dated 29 April 1958, was formally established as a Class II Activity under the jurisdiction of the Chief of Ordnance by Letter Order, dated 12 July 1945, issued by the Adjutant General, Department of the Army. The Office, Chief of Engineers issued a Real Estate Directive, dated 8 February 1945, declaring the use of certain land areas to be of military necessity and directed that these areas be acquired on a co-use basis. Co-use arrangements proved inadequate and renegotiation for exclusive-use contracts was directed by letter, dated 3 March 1949, from Office, Chief of Engineers. All public lands involved were withdrawn by Department of the Interior Public Land Order 833, dated 21 May 1952, and reserved for the use of the Department of the Army for military purposes. Land areas as shown on the map, Ft. Bliss AA Range No. 1, (Ft. Bliss transfer), Holloman Air Force Base (Alamogordo Bombing Range), and White Sands Proving Ground (Ordnance California Institute of Technology Area) were combined to form the White Sands Missile Range.

2. A letter, dated 19 August 1952, from the Office of the Secretary of Defense, transmitted to Department of the Army, Navy and Air Force the Plan of Operations of White Sands, Holloman Ranges which placed the operational control of the integrated Range, comprised of approximately 2,165,565 acres, under the command, management, and the operational responsibility of the Department of the Army. It stated that the integrated Range was the principal installation for the execution of all technical and engineering responsibilities associated with flight testing of guided missile, rockets, or other munitions which may be assigned for testing; and for the general supervision and coordination as pertains to scheduling, Range safety, and instrumentation of all flight testing performed for either contractor or user purposes. In addition, it provided that "This plan involves no

transfer of property between the military departments; but each of the military departments may retain the ownership or interest in the property and facilities at White Sands Proving Ground which it now has or in the future may have. Such ownership or interest shall not, however, impair the authority vested by this plan in the Commanding General, WSPG". All but 40,444 acres of the Alamogordo Bombing Range was transferred to Department of Army on 1 July 1964.

3. Memoranda from the Assistant Secretary of Defense to the Chief of Engineers, dated 7 March 1958 and 20 March 1959 and letter ENGLL dated 6 November 1959, stated that a project for the acquisition of the real estate in the Alamogordo Bombing Range again be considered by the Department of the Army and Department of the Air Force for inclusion in the 1960 MCA Program; and that continued consideration should be given to a joint Army - Air Force Project for acquiring fee title to these lands. Although Department of the Army was directed to pursue the fee acquisition of land and to extinguish all outstanding interest in the White Sands Missile Range, the Department of Defense, on 4 November 1959, deleted the item proposing these real estate actions from the Army Program. This proposal was for fee simple acquisition or full title of the Alamogordo Bombing Range real estate by the Department of Army and is referenced herein to indicate the prior consideration and interest at the Department of Defense level for acquisition of these properties by the Department of the Army. Subsequent projects for the acquisition in fee of the leased real estate within White Sands Missile Range have also been deleted from the program.

4. As stated above, the leased real estate comprising the major part of White Sands Missile Range has been under exclusive use since 1950. During this time an approximate $60 million worth of facilities, instrumentation and other improvements have been placed on these leased lands. The use of this real estate under present leases costs approximately $417,608 per annum. Over the past 20 years approximately $8.3 million has been expended on leasing.

5. There are 87 mineral leases on WSMR covering an approximate 203 individual mining claims. The 64 mineral leases lying within the ORDCIT Areas expried 30 June 1969. These leases have been renewed for a one-year period extendable to 30 June 1979. The remaining 23 mineral leases lie within the Alamogordo Bombing Range Area and expire 30 June 1970.

6. The variance in the expiration dates of the mineral and grazing leases comes about by the peculiarities of the Real Estate Directives issued as applying to the Alamogordo Bombing Range or the ORDCIT Area. Listings of the leases presently in effect within these areas are attached under Appendix A.

7. Photographs of some of the old ranch headquarters showing their present condition are attached as Appendix C. Payments for restoration of these ranch facilities are provided for in the real estate leases.

WSMR PROPER

(Exclusive Use)

Portion	Owned In Fee	Federal Public Domain	State of New Mexico	Private	Other Federal	Total
	(acres)	(acres)	(acres)	(acres)	(acres)	(acres)
Alamogordo Bombing Range	1,490	905,602	262,991	32,991		1,202,120
ORDCIT		513,361	85,752	39,040		638,153
Fort Bliss Transfer Area	164,960					164,960
White Sands National Monument					76,910	76,910
San Andres Wildlife Refuge					41,272	41,272
Jornada Experimental Range					42,150	42,150
TOTALS	166,450	1,418,963	348,743	71,077	160,332	2,165,565

ANALYSIS
WHITE SANDS MISSILE RANGE
EXCLUSIVE USE REAL ESTATE

1. The Taylor Grazing Act of 28 June 1934 (48 Statute 1269) authorized the issuance of grazing permits and licenses on the federal public domain lands. Prior to the amendment of this Act in 1948 by enactment of 315q of Title 43, no compensation was available to the holders of such permits or licenses when they were cancelled or terminated by agencies of the United States. With the enactment of 315q., Congress recognized private economic interest in the public domain lands. The Courts have held that the procedures outlined by this Section are the exclusive means by which such permittees or licensees may recover for the cancellation of their permits or licenses.

2. Section 315q provides that the holders of grazing permits or licenses cancelled on public domain land for war or national defense purposes shall be paid such amounts as the head of the department or agency using the land shall determine to be fair and reasonable for the losses suffered by the holders. The statute further provides that the payments made thereunder are deemed payment in full for such losses. The statute, however, does not set forth criteria or standards for determination of the amount of compensation to be paid.

3. The public domain lands within WSMR were withdrawn from all forms of appropriation under the public land laws including the mining and mineral-leasing laws by Public Land Order 833 dated 21 May 1952. This withdrawal of public lands for the use of the Department of the Army was for military purposes and was made subject to valid existing rights. It is stated in the Land Order that, "It is intended that when the lands are no longer needed for military purposes they shall be returned to the administration of the Department of Interior and any other Federal Agency according to their recorded interests."

4. The public domain lands in this area of New Mexico were adjudicated for grazing purposes as a result of the Taylor Grazing Act, on the basis of available water. The public domain lands were assigned to a "base water" based on a maximum service area of five-mile radius. The person owning or controlling the base water controls the grazing rights on surrounding public domain lands. This still applies in the administration of the public domain in this area.

5. Ranches in this area are sold on the basis of carrying capacity (number of animal units that can be grazed year long). This carrying capacity is the total carrying capacity of the ranch and covers private land, state land, and public domain lands. The grazing rights on the public domain lands are sold the same as the private land.

6. An administrative determination of whether compensation paid under 315q is fair and resonable must consider the full extent of the grazing rights. As long as an individual retains control of the base water located on state or private land and maintains said water, he will control the grazing rights on the surrounding public domain land. In the event that Public Land Order 833 is revoked the public domain land will revert to the Department of Interior. It is assumed that licenses for grazing on the public domain lands concerned will be granted on base waters as it was in the beginning.

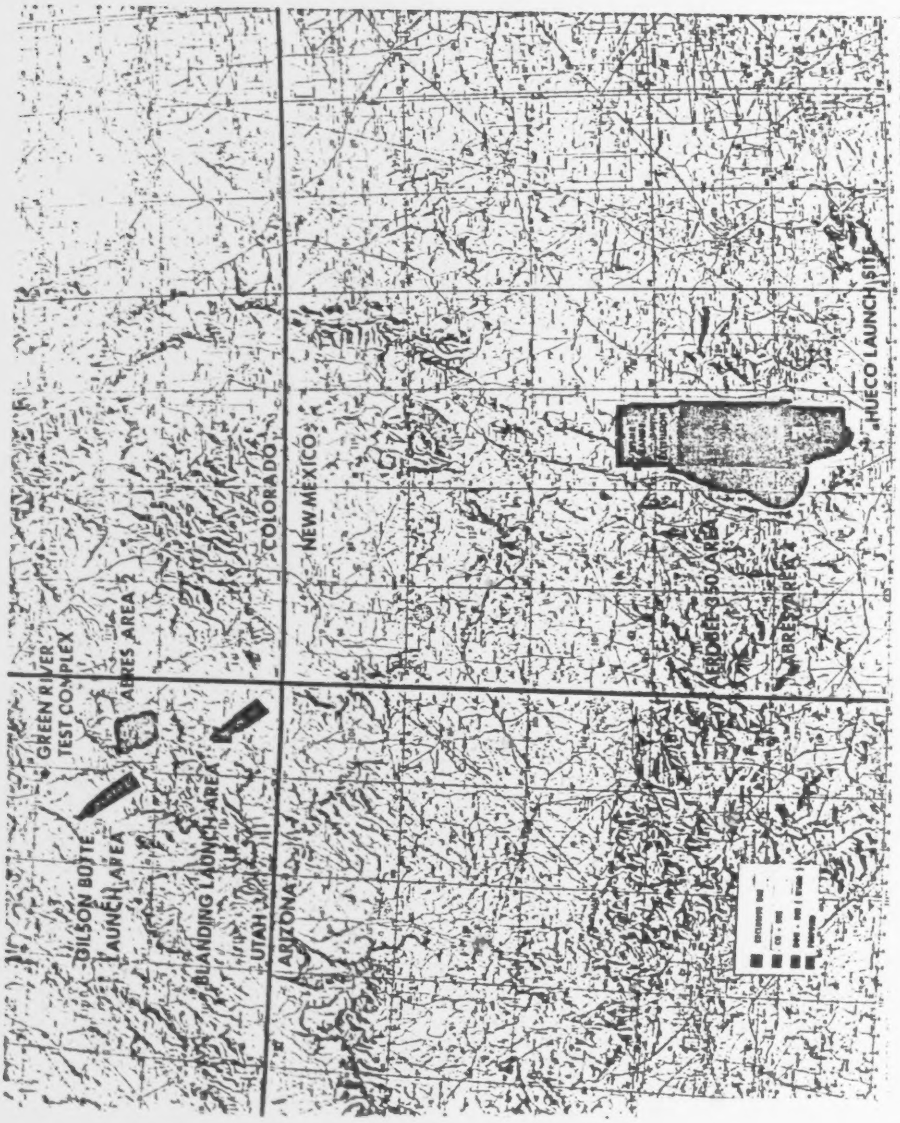
7. The current Lease and Suspension Agreements with the individual ranches, which were obtained in 1950, contain a complete legal description of the real estate covered, including the public domain and state lands. The grantor leases and delivers possession to the Government of all rights and privileges he possesses except mining claims. The lease also states that it was made pursuant to authority of the Act of 9 July 1942, (Public Law No. 663, 77th Congress) as amended 28 May 1948 (43 USC 315q). Also within the lease the Government recognizes that the transaction shall be without prejudice to the position of the grantor in any application for grazing privileges made when and to the extent that the lands

described therein are returned to Federal grazing administration. These agreements are worded in such a manner, as shown by the above clauses, to lead the grantor to believe that the Department of Army originally had every intention, at the end of the 20-year period, to return these lands to the rancher for his further use.

8. In order for a ranch to be considered an economical unit, there must be adequate livestock carrying capacity to provide the user with the means of a livelihood. It is common in this area of the West for a rancher to actually own only a small portion of the total ranch, i.e. a section or less, which includes the base water. The majority of the ranches which are under lease within White Sands Missile Range are of this type. Elimination of the public domain land, or the grazing rights on these lands, from the ranch significantly decreases the value of the ranch since there would be insufficient carrying capacity remaining to make it economically feasible to operate.

9. The ORDCIT and Alamogordo Bombing Range Areas comprised of Federal public domain, State of New Mexico and privately owned lands, constitute 85 % of White Sands Missile Range. This is exclusive of the 2,369,899 acres of cooperative use real estate located off-Range over a two-state area (New Mexico and Utah).

10. It is imperative that these leased lands continue to be available in order for WSMR to continue as a National Missile Range. Cooperation between WSMR and the ranchers owning or utilizing these leased lands has been excellent. It is essential that this cooperation continue. Maximum effort must be directed toward obtaining a satisfactory solution to the continued exclusive use of the real estate within the ORDCIT and Alamogordo Bombing Range Areas.


GREEN RIVER TEST COMPLEX
GILSON BUTTE LAUNCH AREA
ABRES AREA 2
BLANDING LAUNCH AREA
UTAH
ARIZONA
COLORADO
NEW MEXICO
AEROBEE 350 AREA
ABRES AREA 1
HUECO LAUNCH SITE

WSMR COOPERATIVE USE
REAL ESTATE

1. In addition to the real estate within White Sands Missile Range proper, several cooperative use areas off-Range are utilized. A total of 2,369 899 acres in seven areas in the states of New Mexico and Utah are utilized as Safety Areas in support of various missile programs. Residents of these areas continue to utilize the real estate and evacuate several times a year for a maximum of 12 hours upon receipt of an evacuation notice. This arrangement on these off-Range areas has proved to be very satisfactory. The Long Range Master Plan of WSMR contains no provision for obtaining a greater interest in these lands. The present system of use has been in effect since 1958 on the Range Extension area; since 1963 on the ABRES and Pershing Areas, and since 1969 on the Aerobee 350 Area at an approximate cost of 1½ cents per acre per evacuation.

2. This type of use over this extended period of time has been possible only through the excellent cooperation of the land owners. Less than $2,500 has been paid on damage claims as a result of this cooperative use.

OFF-RANGE REAL ESTATE
(Acres)
WHITE SANDS MISSILE RANGE

AREA	BLM PUBLIC DOMAIN	OTHER FEDERAL	STATE	PRIVATE	INDIAN	TOTAL
ABRES Area #1						
Exclusive Use	1,619.24		840.00	1,169.31		3,628.55
Co-Use Area	11,112.42		760.00			11,872.42
ABRES Area #2	242,570.09	7,056.71	36,473.79	11,387 00		297,487 59
ABRES Area #4	392,590.27	14,030.47	109,799 60	84,482.31		600,902 65
SUB-TOTAL ABRES	647,892.02	21,087 18	147,873.39	97,038 62		913,891.21
Range Extension	332,180.72		283,008.46	266,649 63		881,238.81
BLANDING AREA						
Black Mesa	65,135.63		6,968.02	1,600 00	10,429 72	84,133.37
White Mesa Radar	480 00					480 00
Gilson Butte Area	220,272.56		28,460 00	160.00		248,892.56
AEROBEE 350 Area*	92,110.00	23,401.00	11,960 00	113,792 00		241,263 00
GRAND TOTAL	1,358,070.93	44,488.18	478,269.87	478,640 25	10,429 72	2,369,898 95

*Estimated

100 a/cow
60/Cu

REAL ESTATE LEASES WITHIN ALAMOGORDO BOMBING RANGE PORTION

ct Number	Name	Lease Number	Acres Federal	State	Patented	P/A Rental	
	Pete & Luis Aguilar	DA-29-005-Eng-53	2411.20	-	-	250.00	14,400
	John H. Wood, Jr.	DA-29-005-Eng-54	1367.72	-	-	395.00	7,800.
	P.E. & J.U. Potter	DA-29-005-Eng-55	1120.00	-	-	253.00	6,600
	Arthur D. Helms	DA-29-005-Eng-56	7410.15	856.70	-	1010.00	49,800
	George H. Foster	DA-29-005-Eng-57	11124.85	1275.02	-	3600.00	74,394
	Eva Henderson Wood Degman	DA-29-005-Eng-58	4395.23	800.00	-	1280.00	31,200
27-1	Gayle Middleton	DA-29-005-Eng-59	26277.19 96.00)	1120.00	-	2595.00	268,800
37-1	Gayle Middleton	DA-29-005-Eng-60	13540.84 169.70) 40083.73	2558.32 3678.32	1000.00	3990.00	
	Roy E. Tucker	DA-29-005-Eng-61	3427.56	798.82	479.02	1710.00	
7-1	Albuquerque Nat'l Bank Trustee	DA-29-005-Eng-62	36231.74	14955.23	678.29	6230.00	
	A.D. & A.B. Helms	DA-29-005-Eng-63	3287.17	-	1120.00	1660.00	
	A. C. Woolf	DA-29-005-Eng-64	3044.52	-	-	700.00	
	Clay L. Smith	DA-29-005-Eng-65	5650.28	640.00	638.90	1675.00	
	Pete & Luis Aguilar	DA-29-005-Eng-66	49420.11	-	-	374.00	
	Belle McNatt Samples	DA-29-005-Eng-67	11171.58	-	720.00	2700.00	
	Laura E. McKinley	DA-29-005-Eng-68	50397.18	6443.09	80.00	9315.00	
4-1	Osie & Garnie Danley	DA-29-005-Eng-69	15703.32	-	160.00	2065.00	
	J. P. Wood	DA-29-005-Eng-70	2701.04	640.00	-	895.00	

REAL ESTATE LEASES WITHIN ALAMOGORDO BOMBING RANGE PORTION

Number	Name	Lease Number	Acres Federal	 State	 Patented	P/A Rental
	Lloyd Crockett	DA-29-005-Eng-71	799.02	-	-	154.00
	F. O. Crockett	DA-29-005-Eng-72	7042.14	640.00	-	1200.00
	L. D. Cain	DA-29-005-Eng-73	409.24	-	-	62.00
1,15-2	L. D. Cain	DA-29-005-Eng-74	85895.64	11610.26) 1246.62)	480.00	10040.00
	George W. Henderson & Sons	DA-29-005-Eng-75	17313.84	640.00	1918.24	3835.00
1-1	George McDonald	DA-29-005-Eng-76	35546.06	5725.56) 600.00)	473.79	10960.00
	F. E. Henderson & Son	DA-29-005-Eng-77	20305.23	1920.00	396.92	6140.00
	Lester Greer, et al	DA-29-005-Eng-78	9591.95	1280.00	1997.22	3640.00
	George W. Henderson, et al	DA-29-005-Eng-79	42114.99	3197.56	957.80	4915.00
	H. A. Wood	DA-29-005-Eng-80	16745.60	1511.20	839.62	4680.00
	J. C. Johnson	DA-29-005-Eng-81	-	-	-	415.00
	Michel Harriet	DA-29-005-Eng-82	32036.90	24861.54	-	14450.00
	Allene Bruton, et al	DA-29-005-Eng-83	9074.08	640.00	640.00	2180.00
	Howard Glen McDonald	DA-29-005-Eng-84	22535.87	4468.34	640.00	5185.00
	Georgia & W. F. Martin	DA-29-005-Eng-85	21239.10	4996.85	180.43	5380.00
	Frank Andregg	DA-29-005-Eng-86	1338.60	-	-	280.00
1,29-2	Estella A. Mitters, et al Lincoln County Agency of Citizen's State Bank	DA-29-005-Eng-87	738.58	-	-	140.00

REAL ESTATE LEASES WITHIN ALAMOGORDO BOMBING RANGE PORTION

act Number	Name	Lease Number	Acres Federal	State	Patented	P/A Rental
	Estella E. Withers Citizen's State Bank of Vaughn	DA-29-005-Eng-88	9789.05	240.00	3196.04	5335.00
,30-1,2,3,4 9,110,111,	Truman A. Spencer et al	DA-29-005-Eng-89	137543.00	99143.32	2703.36	28140.00
	Red Canyon Sheep Company	DA-29-005-Eng-90	13947.13	2680.00	2960.00	4800.00
	William M. Walters	DA-29-005-Eng-91	1736.84	640.00	40.00	168.00
	Holm O. Bursum, Jr.	DA-29-005-Eng-92	54903.97	28171.55	6370.57	21385.00
	Diz Livestock Company	DA-29-005-Eng-93	16786.46	1920.00	-	2390.00
,24-1	Dick Gilliland	DA-29-005-Eng-94	18502.61 632.60	2240.00	200.00	4403.00
	Emma Green, et al	DA-29-005-Eng-96	30970.77	4481.86	2125.29	8420.00
	Ross & Dave McDonald	DA-29-005-Eng-298	18405.00	1920.00	640.00	7635.00
-40-1	Anna, Clara & Lily Story	DA-29-005-Eng-318	22773.90	960.00	800.00	6865.00
	Guillermo S. Rocha	DA-29-005-Eng-467	1760.00	-	80.00	320.00
	Osie & Garnie Danley	DA-29-005-Eng-473	-	-	-	308.00
	Osie & Garnie Danley	DA-29-005-Eng-474	2640.00	-	240.00	407.00
4	J. C. Johnson	DA-29-005-Eng-665	-	-	119.82	10.00 0
0,130-1 ru 49	State of New Mexico	DA-29-005-Eng-842	-	30330.55	-	1516.53
& 1-1	Harvey Investment Co.	DA-29-005-Eng-1418	-	640.00	320.00	250.00

REAL ESTATE LEASES WITHIN ALAMOGORDO BOMBING RANGE PORTION

Number	Name	Lease Number	Federal	Acres State	Patented	P/A Rental
		Mining Claims				
	B. O. Burris	DA-29-005-Eng-300	-	-	-	100.00
	W. T. Messman, et al	Civil Action 394	-	-	39.88	3.60
, J-117,	C. V. Clayton	Civil Action 394	-	-	270.00	33.00
	D. C. Woods	Civil Action 394	-	-	160.00	11.00
	D. M. Babers, et al	Civil Action 394	-	-	-	60.00
	Mex-Tex Mining Co.	Civil Action 394	-	-	-	20.00
	Robert G. Chenoweth	Civil Action 394	-	-	-	200.00
, M-143,	J. W. Dale	Civil Action 394	-	-	-	20.00
	A. B. Fleming	Civil Action 394	-	-	-	500.00
	C. E. Henson	Civil Action 394	-	-	-	50.00
	W. E. Griffith	Civil Action 394	-	-	-	100.00
& M-69	L. C. Hayes	Civil Action 394	-	-	-	200.00
M-87	Oliver Seth, et al	Civil Action 394	-	-	-	80.00
	Rube McDonald	Civil Action 394	-	-	-	10.00
	W. C. Hunter	Civil Action 394	-	-	-	185.00
	R. L. Huffmeyer	Civil Action 394	-	-	-	10.00

REAL ESTATE LEASES WITHIN ALAMOGORDO BOMBING RANGE PORTION

ct Number	Name	Lease Number	Acres Federal	State	Patented	P/A
		Mining Claims (Cont'd)				
3	Mrs. Lillian Wohlenburg	Civil Cation 394	-	-	-	100
,M-50	Helen Otis Jones	Civil Action 394	-	-	-	50
7	J. C. Jackson	Civil Action 394	-	-	-	10
9,60	J. N. Miera	Civil Action 394	-	-	-	400.0
	State of New Mexico	Civil Action 394	-	-	-	1203
5	Jess Whitt & Herman Burg	Civil Action 394	-	-	-	100
1,32,96,98	George A. Shipley, et al	Civil Action 394	-	-	-	[illegible]
2,83,86,89 7	Mockingbird Mining Co.	Civil Action 394	-	-	-	9000
	George A. Shipley, et al	Civil Action 394	-	-	-	110
3,51-39	George A. Stone	Civil Action 394	-	-	-	800.0
2	Heirs of J. C. Jackson	Civil Action 394	-	-	-	100.0
	State of New Mexico	Civil Action 394	-	-	-	954.00
	O. D. McNatt, et al	Civil Action 394	-	588.16		150.00
	Department of Interior Land not included under grazing leases and transferred under P.L.O. No. 833		37169.75	-	-	-

REAL ESTATE LEASES IN ORDCIT PORTION

act Number	Name	Lease Number DA-29-005-Eng-	Acres			
			Federal	State	Patented	P/A Rental
	Dept of Interior		8154.40			
	State of New Mexico	2869		8795.65		
12	Robert Issacks	415	4184.42			2000.00
14	Hal & Alyce Lee Cox	519	17082.46	1351.57	3080.85	10000.00
15	George R. Quesenberry	394	18068.65	2698.48	718.60	3000.00
16	Owen	332	18851.79	1921.40	172.85	5050.00
17	Myrtle Issacks, et al	333	4608.25	1235.16		630.00
18,18-1	Genevieve Sanders	351	79702.91	6072.56 10.00	1360.00	7900.00
24	Edward Stuart	1102			162.52	48.00 O
100	William Moss	417	3836.44			190.00
102,102-1	Diz Livestock Co.	288	44045.64	2720.00) 640.00)	160.00	4323.00
104	Jornada Experimental Range		83421.81			
109	G. B. Oliver, et al	507	16687.96	1919.48	640.00	3000.00
111	Mark H. Virden, et ux	371			636.23	120.00 O≡
112,112-1 112-2	Mrs Frank L. Ridinger	413		320.00) 120.00) 240.00)		3600.00

REAL ESTATE LEASES IN ORDCIT PORTION

Tract Number	Name	Lease Number DA-29-005-Eng-	Acres Federal	State	Patented	P/A Rental
B-113	William M. & Ann Walters	91	17,906.59			1,632.00
B-114	Dept. Of Interior	(WSNM)	76,910.00			
B-117	Diz Livestock Co.	93	27,010.94	2,561.44		3,287.00
B-118	Frank Andregg, et al	86	9,631.60	1,320.72	831.65	2,520.00
B-119	Jack Bruton, et ux	338	46,820.67	4,137.67	450.68	10,180.00
B-121	Albuquerque National Bank trustee (Ritch)	62	2,663.32		40.00	517.00
B-122	Roy L. Henderson	327	4,779.28	640.00	40.00	1,250.00
B-123,123-1 B-123-2	F. O. Crockett, et al	72	5,246.67) 12.80) 25.60)	1,020.03		2,050.00
B-124	Loyd Crockett, et. ux	71	16,107.97	2,882.49		5,421.00
B-1 5,125-1	Winnie M. Ritch	278		648.24	640.00	225.00
C-200	A. C. Woolf, et ux	64	13,251.36	2,131.67	1,790.87	5,940.00
C-201	P. E. Potter, et al	55	9,958.89	313.71	2,158.12	3,877.00
C-203,203-1	Charles W. Hardin, et ux	326	3,175.14	1,284.32	720.00) 80.00)	5,900.00
C-204,204-1	Len M. Rogers, et. ux	287	1,261.48	640.00	1,680.00) 40.00)	1,375.00
C-205	Charles W. Hardin, et ux	326	1,925.00	800.00	1,760.00	(see 203 above)
C-206	J. P. Wood, et ux.	70	9,131.29	643.58	1,360.00	3,455.00

REAL ESTATE LEASES IN ORDCIT PORTION

ract Number	Name	Lease Number	Acres Federal	 State	 Patented	P/A Rental
-208	John H. Wood, Jr.	DA-29-005-Eng-54	4,459.85	964.03	640.00	2,305.00
-209	Dick Gilliland, et ux	94	3,153.82	352.54	654.33	935.00
-210	L. D. Cain, et ux.	73	18,903.03	2,508.24	160.00	3,238.00
-212	Albuq. Natl. Bank trustee (Ritch)	563			40.00	5.00
-214,214-1	Myrtle A. Henderson	77	1,075.69) 1,112.60)	562.82) 640.00)	499.66) 335.49)	910.00
-300	Osie Danley, et ux	69	1,879.45	640.00	160.00	835.00
-301	Osie Danley, et. ux.	292	1,809.26			240.00
-301-A	Mrs. Lupe Bernal Robertson	325	800.00			90.00
-302	Osie Danley, et. ux	474	482.79		402.89	313.00
-303,303-1	G. V. Clayton, et. ux.	328	440.00		160.00) 13.30)	140.00
-304,304-1	Dept. of Interior	PL-833	120.00) 40.00)			
-305	Pete Aguilar, et ux	53	592.45		77.40	80.00
-306	R. T. Spence, et. ux.	411			168.81	50.00
-307	Montie Gardenhire	439			602.97	1,000.00
-309	Paul Wright	392			36.04	10.80
-310	Montie Gardenhire, et. al	391			120.00	36.00
-311,311-1 311-2	Montie Gardenhire	430	440.00) 132.48) 536.87)	120.00	160.00	525.00

REAL ESTATE LEASES IN ORDCIT PORTION

act Number	Name	Lease Number	Acres Federal	Acres State	Acres Patented	P/A Rental
312,312-1 2-2	J. C. Johnson, et. ux	DA-29-005-Eng- 438	864.15) 396.24) 80.00)			520.00
313	O. M. Voyde & Mrs. Gustav Liffmann	377			160.00	24.00
314,314-1	John H. Marschale, et ux	336			320.00) 155.68)	144.00
315, 315-1 5-2	G. V. Clayton, et. ux.	370			160.00) 80.00) 160.00)	120.00
316	Fred W. King, et. ux	364			312.00	105.00
317	George Dosing, estate	CA1244			3.00	
318	Herbert Folkers, et. ux.	342			395.52	138.00
319,319-1 9-2,319-3	Truman A. Spencer, et al	89	8,771.03	12,906.41	7,133.28) 160.00) 76.53) 40.00)	5,885.00
320	Henry Shores, et. ux.	192			640.00	2,750.00 0 –
322	A. M. Horne, estate	CA1244			40.00	
323	Jesse Robert Gilbert, et al	340			40.00	12.00
324	Jessie B. Guillon, et al	363			26.67	8.00
325	W. E. Groom, et. al	584			15.00	5.00
326	Frances C. Insall	435			25.00	7.50
327	F. B. Warner, et. ux.	374			80.00	24.00

REAL ESTATE LEASES IN ORDCIT PORTION

t Number	Name	Lease Number DA-29-005-Eng-	Acres Federal	State	Patented	P/A Rental
8	Helen D. McFarland	335			80.00	24.00
9	Walter & Orba Ray	CA2400			80.00	
0	Montie Gardenhire, et ux	393			60.00	18.00
1	Burton R. Slates, et ux	566			40.00	12.00
32	G. E. Hackle	CA1244			3.00	
33	Fred W. King, et ux	339			2.00	5.00
34	C. V. Williams estate	CA2400			20.00	
35	George C. Carver, et al	436			20.00	6.00
36	George C. Carver, et ux	437			30.00	9.00
37	George C. Carver, et ux	418			30.00	9.00
38	R. T. Spence, et ux	CA-2400			160.00	
0,400-1	Dick Gilliland, et ux	94	516.15) 160.00)	(see C-209)		
[illegible]	Michael Harriet, et ux	82	29,487.01	8,710.24	1,838.71	9,350.00
03,403-1	Barbarita Baca	289	2,200.34) 1,960.00)	160.00	800.00	2,000.00
06,406-1	Holm Bursum	92	8,133.38	1,931.00) 640.00)	200.00	2,915.00
07	William Dean Fite, et ux	95	8,969.90		320.00	1,150.00
00	Arthur D. Helms, et ux	56	4,386.88		318.36	1,290.00
01	Estella E. Withers, et al	87	2,938.29	3,468.56	1,569.67	4,660.00

70

REAL ESTATE LEASES IN ORDCIT PORTION

ct Number	Name	Lease Number DA-29-005-Eng-	Federal	Acres State	Patented	P/A Rental
02	George McDonald, et ux	520	12,128.47	3,045.72		3,000.00
03	Weldon McKasky Mabel H. Rentfrow et al	97	7,988.94	1,280.00		1,900.00
04	Red Canyon Sheep Co.	90	7,489.13	640.00	640.00	3,520.00

REAL ESTATE LEASES WITHIN ORDCIT PORTION

MINING CLAIMS

ct Number	Name	Agreement # DA-29-005-Eng-	P/A Rental
60	Diz Livestock Co.	447	
40	Seale & Shanner	448	$35.00
48	Fred C. Leach	449	335.50
77	Fred C. Leach	451	45.00
79	Fred C. Leach	452	110.00
73	Henry Heuer	453	350.00
38	Henry Heuer	454	90.00
58	Winnie M. Ritch	455	10.00
44	Winnie M. Ritch	456	20.00
72	Henry Heuer	457	195.00
52	Henry Heuer	458	225.00
15	Charles Schreiner	463	400.00
6	Barbara O'Neill	482	25.00
10	Harriet A. Jentley	483	100.00
20	Hugh B. Johnson	484	350.00
-28	Wm Everett Moore	485	50.00
-30	Wm Everett Moore	486	10.00
-31	Houser & Hammer	487	55.00

REAL ESTATE LEASES IN ORDCIT PORTION

MINING CLAIMS

t Number	Name	Agreement #	P/a Rental
32	Houser & Hammer	DA-29-005-Eng-488	$540.00
34	Houser Hammer	489	22.00
35	Houser & Jammer	490	38.50
36	Houser & Hammer	491	22.00
37	Houser & Hammer	492	55.00
41	Houser & Hammer	493	33.00
43	Houser & Hammer	494	11.00
45	Wm. Everett Moore	495	25.00
46	Houser & Hammer	496	22.00
50	Houser & Hammer	497	60.$\overset{5}{8}$0
53	Houser & Hammer	498	22.00
54	Wm. Everett Moore	499	20.00
62	Wm. Everett Moore	500	30.00
64	Houser & Hammer	501	55.00
66	Wm. Everett Moore	503	15.00
74	Houser & Hammer	504	75.00
78	Wm. Everett Moore	505	30.00
3	W. L. Hammer	509	220.00

REAL ESTATE LEASES WITHIN ORDCIT PORTION

MINING CLAIMS

Number	Name	Agreement # DA-29-005-Eng-	P/A Rental
	W. L. Hammer	509	-
	William J. Foy	514	50.00
	Henry A. Heuer	549	20.00
	Hal Cox	553	60.00
	Houser & Hammer	571	432.50
	Hal Cox	581	75.00
	Hal Cox	582	75.00
	Winnie Ritch	585	460.00
	Winnie Ritch	586	25.00
	W. L. Hammer	587	515.00
	Edward Kimball	618	90.00
7	Moore & Jay	659	78.50
3	Mary S. Parker	666	45.00
6	A. C. Bohrnstedt	678	25.00
1	Hohenberger & Emery	721	404.00
3	Winnie M. Ritch	732	330.00
4	A. Rawson Wood	917	76.17
4	Elizabeth Wood	918	66.02

REAL ESTATE LEASES WITHIN ORDCIT PORTION

MINING CLAIMS

Tract Number	Name	Agreement # DA-29-005-Eng-	P/A Rental
OM-14	Anna Meadowcroft	919	182.81
OM-20	Mary Smith Fuller	953	130.00
	J. W. Sidwell	1071	32.00
	Frank S. Skidmore	1074	32.00
	Smith & Kircher	1207	112.00
OM-25	Seale & Hoffer	265	270.00
OM-26	Seale & Hoffer	265	-
OM-27	Seale & Hoffer	265	-

HARVEY INVESTMENT COMPANY

DRAWER 140
EL PASO, TEXAS 79980

14 November 1983

PAUL HARVEY PRESIDENT
PAUL HARVEY, JR VICE-PRES
E P HARVEY, JR V P & ASST GEN MGR
WILL HARVEY VICE-PRES
ALLEN HARVEY VICE PRES
E P HARVEY SEC & GEN MGR

HARVEY SHEEP AND CATTLE CO
CARRIZOZO, NEW MEXICO

HARVEY FARMS CO
LAS CRUCES, NEW MEXICO

HARVEY HEREFORD RANCH
CLOUDCROFT & ALAMOGORDO, NEW MEXICO

Mr. Reuben Pankey
Box 672
Truth or Consequences, N.M.

Dear Reuben;

The enclosed document is an exact extract copy of a briefing document produced by White Sands Missile Range to explain its situation to higher headquarters. The only parts omitted are a number of photographs of improvements on ranches and some large maps. The text is complete as originally written. Some parts of this text was censored in the documents actually used, but this text is the original.

Of particular interest is the section--"Analisis --White Sands Missile Range--Exclusive Use Real Estate".It explains the Taylor Grazing Act and the application of Sec. 315 q, and the intent of the Lease and Suspension agreements. Paragraph 7 is of particular interest. Paragraph 1 indicates that 315 q was enacted primarily to take care of the White Sands problems.

The sole point at issue in the White Sands problem is that of justice, fairness, and equity. In my opinion, there is no question of legality. Sec. 315 q says: "....holders of grazing permits or licenses cancelled on public domainland for war or national defense purposes shall be paid such amounts as the head of the department or agency using the land shall determine to be fair and reasonable for the losses suffered." The head of the Department of Army decided that since the permittees had been paid lease money for some thirty years, that they had been fairly and reaonably compensated for their ranches and permits and thus the only amounts owed were for their deeded land and improvements.

This is akin to my leasing your house from you and then at the end of the lease period siezing it and telling you that the fact I had paid a lease meant that I had bought the house.

The courts held that the deeded land usually did not comprise economic ranching units and thus were paid for on the basis of isolated tracts with little economic value. About the only places where this did not apply were on the borders of the Range where the lands adjoined other parts of the ranch, or where there were blocks of State and private land which could be considered ranching units.

The decision by Army was appealed to no avail and every device was used before the Courts. The situation is that the only relief available to the ranchers is from the Congress. The Hinkle law firm in Roswell represented most of the ranchers and can affirm this.

Public hearings were held in 1951 in regard to the withdrawel order (PLO 833). I have personally examined this file and the testimony and correspondence by

Army and Interior tends to bear out the understandings that the ranchers assert--that they have been treated unfairly. I had this file retreived from the archives for my purposes and examined it in the office of the minority council for the Senate Interior Committee when this matter came up. If the whole record needs to be examined, this record has some very interesting statements. It might be well to ask that the record be held open and this file submitted. Of particular interest are lettes from interior, both to Army and internal.

A matter in regard to licenses and permits which is little understood and not even discussed is Preference. Preference is a property right which is taxable by IRS in gift and estate matters. The preference is the right granted to a holder of base property (water) to stand first in line for any grazing to be made available on public lands. If no grazing is available, the preference is emptyand has no value, however if there is any grazing available, it becomes valuable. The grazing is represented by a license or permit for use. In this case, the public land were withdrawn from grazing under PLO 833, but the preference holders were assured that their interests were protected by the documents called "Lease and Suspension Agreements" which leased their base property.

Army used a sharp legal tactic. They waited until the Lease and Suspension Agreements expired by their own terms in 1970 and then told the ranchers they were taking the base property. The ranchers had lost the protection of the Agreements and since PLO 833 was still in force, they could not legally claim an operating ranch unit, in most cases. What was done appears to be legal, but in my opinion, was highly immoral. In their zeal to save the taxpayers some money, they did a real injustice. What they saved was a pittance in respect to the overall military budget, but meant a great deal to the ranchers in both economic and human terms.

Very Sincerely,

Phil

Phil Harvey

Senator DOMENICI. Someone checked and this is another natural gas vote, and I think both of us ought to make it. If you do not mind, we will come back.

STATEMENT OF BOB JONES, PUBLIC LANDS COUNCIL, NATIONAL CATTLEMEN ASSOCIATION

Mr. JONES. I think I would relinquish my time, Senator. I cannot say anything that has not been said. I might make one quick comment before you all go. In 1938, the 10th circuit court held that a permit was a thing of value entitled to equal protection under the law. I think that is important.

I noticed when we came over today with some of the group, that the building over here on the other side was, printed up on top of it is "Equal Justice Under the Law," and I think that is what these people are after.

We really thank you for your consideration.

Senator DOMENICI. You are welcome. We are going to have a minute here. They will wait for us downstairs. We called and told them that we are here.

Let me first thank all of you for coming. I hope you who did not testify enjoyed your visit, and I hope you know that we did not intend to break this hearing up with all of these votes, but it was either do it this way or not do it this year, and we thought it was important to get it done and give us a little time next year to analyze it and see what we can do.

We are most appreciative of your forthrightness and you experts, we are very appreciative of the way you have prepared your testimony. From my standpoint, I would tell you this, I do not think there is any question that the permits were things of value, regardless of the way the courts have defined them from time to time.

To tell you the truth in 7 years of practicing law before I came here, I had the privilege of drawing up maybe five major real estate contracts involving ranches. There is just no question and we put in the grazing permits and we valued the entire sale and it was contingent upon the transfer of permits, and once transferred people paid the price for the entire unit. I remember two down in the Deming area, even though I was in Albuquerque, and that has continued right on though today even though it is cancellable and whatever else the courts have said.

I do not think that is the issue. I think the issue is how do we figure a just way at this late day to compensate the individuals and families when they have been paid partially and the Government has changed directions so many times. It is going to be difficult for us to come up with a way. Congressman Skeen has an interesting one. Certainly, we are going to give it every consideration. It might be the best. It might be what the Senate committee wants to do.

I hope you know we are very serious about it and we are going to do something about it. But we do not want to talk. We want to pass something next year and do it in a way that wraps this up 7 or 8 or 9 months thereafter, so we can all go back to our normal living and not wondering when the Government is going to do it. We are going to try to do it.

We will stay in touch and try to come up with something that is satisfactory for most of you and hope we can.

Jeff, I want to give you an opportunity to comment. Thank you for being here. He is not even on this committee and he took his time this afternoon to be here. Since we are short-handed, I am most appreciative of his help and I guarantee you we will work together on this, from what Jeff has told me. Jeff.

Senator BINGAMAN. Let me just say I think it is a real credit to all of the people who came from New Mexico particularly for this hearing and I think it is the kind of interest which certainly gets the attention of people here in Congress when they see this kind of interest on the issue.

I commend Senator Domenici and the rest of this committee for giving this the attention they have and I am anxious to support a reasonable resolution of the problem. I think it is one of the problems which has been around way too long and there is no reason why we cannot come up with a definitive solution and get behind this and I will do all I can to see that that happens.

Senator DOMENICI. Thank you very much.

[Whereupon, at 6:10 p.m., the hearing was adjourned.]

APPENDIX

Additional Material Submitted for the Record

MRS. HAL R. COX
P. O. BOX 666
LAS CRUCES, NEW MEXICO

May 30, 1983

My husband, Hal R. Cox, and I owned a ranch in Dona Ana County, New Mexico, in the White Sands Missile Range area. Hal's father and mother had settled on this ranch in 1886, having traveled overland in a covered wagon from south Texas. This ranch is where Hal grew up, where we anticipated spending the rest of our lives together. We were married in 1931. In view of these circumstances, I'm sure you will appreciate what it meant to us to lose our ranch and home to the Government. I will attempt to give a summary of the events leading up to this upheaval.

In 1940 we agreed to lease a portion of our ranch (about 27 sections) to the War Department for Anti-aircraft Field exercises from Ft. Bliss, Texas, being assured that this lease would in no way interfere with our ranching operations. It was more or less a buffer zone. The War Department agreed to pay us $904.00 per year, with the right to renew and extend the lease from year to year. This was a satisfactory arrangement, with co-operatiom by both sides.

On April 9, 1945 we were served with a petition of Condemnation for a leasehold interest for immediate possession of this portion of our ranch. This was for "Ordcit Project, N. M." According to the petition this was "As an essential step toward the prosecution of the present war effort".

This condemnation came like a bombshell. We had had no previous warning and were stunned. We were required by the order to remove all livestock from that portion of our ranch by May 1, 1945. Less than one month! This, coming in the spring of the year, when calves were being born daily. We knew it would be a terrible loss, trying to round up the cattle with little help -- really disastrous. We were told by the Corps of Engineers that an agent of the War Department would call on us "as soon as practicable to discuss negotiations". (I might say here that Hal and I kept all this correspondence, plus much more, and it is still available.) In the meantime, while waiting to "discuss negotiations", we were to remove all cattle or other livestock. This condemnation was extendable for yearly periods thereafter "during the existing national emergency". In all, we were told that the leases were for the duration of the war, after which our ranches would be returned to us.

There was no place to go with our livestock on such brief notice. We had to have a forced sale. With the War and all its hardships, there was no reason for us to be treated in the crude and dictatorial manner by the Army Corps of Engineers with whom we had to deal, or any department of government.

Our families had sons, nephews, relatives in the service and knew the meaning of war as well as any government official. We were willing to do anything in our power to bring an end to the war.

Through the combined efforts of the ranchers, the N. M. Cattlegrowers Ass'n, and U.S. Senator Carl Hatch, we were given an additional 30 days to move the cattle.

The remaining portion of our ranch, where our headquarters and home were located, lies well to the west and slightly north of White Sands Missile Range headquarters, adjoining U. S. Highway 70. This was being leased (under threat of condemnation) to the Army on a co-user basis which was working out fairly well. We were allowed to live in our home and continue ranching activities, evacuating our persons during firings.

Then, in March, 1950, another bombshell struck when we were informed that a Corps of Engineers appraiser would be at the ranch in 2 weeks to appraise our ranch for an exclusive use lease, whereby we would be required to remove ourselves, our livestock and our belongings by July 1, 1950. Again, we were forced to sell cattle and attempt to find pasture for some of our registered cattle and horses, and other cattle we wanted to save. But, worst of all, we had to give up our home. We signed a lease, being assured it was only from "year to year, for a period not to exceed twenty years". We were paid $10,000 per year, and leased pasture from Hal's brother in Otero Co. for $9,000 per year. Soon afterwards we had to sell this livestock at a loss.

We had excellent improvements on our ranch, the home, wells, fences, pipe-lines, etc., which have now been destroyed. Also, we had a thriving guest business, which the Corps of Engineers never considered in any appraisal as having a value.

Our grazing permit for 405 head of livestock was cancelled. On July 1, 1950 the notice to that effect contained the following statement "grazing permit is subject to renewal under provisions of the Taylor Grazing Act - Federal Range Code upon cancellation of your exclusive use agreement". Everything pointed to a return of the ranches to the owners.

The exclusive-use acquisition of our ranch was handled by the U. S. Army Corps of Engineers, Real Estate Division. You cannot imaging the high-handed, threatening, and downright rude tactics they employed. The ranches were supposedly appraised by the Corps on the "basis of comparative merits of the individual properties. The basic element in the appraisals was the carrying capacity of the individual ranches plus improvements."

At the end of the 20-year lease, June 30, 1970, the Government elected to pay for the improvements instead of restoring them to their original condition, a choice made in the lease. We were paid less than half the value of our improvements. The Army then determined to take title in fee simple for all private land and mineral patents on the ranch. We owned 3209 acres on which most of the improvements were located. Again, the lands were appraised by the Corps, and we were paid less than 1/3 the value of our land.

Our lives were changed drastically by these upheavals. When we were forced from the ranch, we borrowed money from a friend in El Paso and bought an alfalfa farm in Blythe, Calif. We were not farmers, did not want to make our home away from New Mexico, sold it, and went head over heels in debt to buy a ranch near Hillsboro, New Mexico. Hal's health began to fail, so we sold the ranch there and moved to Las Cruces, where he died November 2, 1980. (81 years of age)

A few years ago we asked for permission to take a favorite niece and nephew, who had never seen our ranch, to visit it for an hour or so. Permission was granted under the condition that we be met at our gate by security guards, who accompanied us every step of the way.

Ranches are bought and sold on a carrying capacity value, plus improvements. This was not done in our case, and I hope, even at this late date, that something can be done to compensate the ranchers for their great losses.

Aiyee Lee Cox
(Mrs. Hal R. Cox)

Genevieve Sanders
Bruce F. Sanders
Las Cruces, NM

Saint Nicholas Ranch, lying on the east side of the San Andres Mountains in southern New Mexico, runs from the south of Saint Nicholas Spring, north along the ountains past San Andres Canyon. From the crest of the San Andres, east past Lake Lucero and U.S. Highway 70.

It was the home of my grandfather, Don Barbaro Lucero. From that day in 1862 he drove his cattle into the place now known as Ash Canyon. It was the home of my father, Don Felipe Lucero (who served as sheriff and deputy sheriff alternately with his brother, Don Jose Lucero, for 32 years) in Dona Ana County. It was my home for 40 years and the home of my son for the first 20 years of his life until it was confiscated by the U.S. Army.

In 1949, by negotiating two large loans and selling my larger calves, and after assurances from the Army Engineers and the commanders at the White Sands Proving Grounds that they had no intention of moving us out of the area and by their statements that there was more than enough room for all of us, I was able to buy out the remaining heirs of my grandfather's estate. My husband resigned his job and took over management of the ranch.

In July 1950, contrary to their previous assurances, the Army and the Corps presented us with an exclusive use contract. The contract was drawn on a 20-year basis but was renewable from year to year at the pleasure of the U.S. Army. The total lease payment was to be $7,900.00 per year to be paid in quarterly payments of $1,975.00.

When we protested the shocking inequities of such a small lease payment, pointing out that we were in possession of 600 mother cows, 30 bulls, 352 branded calves, and several unbranded calves and that rented pasture would cost us over $30,000.00 per year, that the state lease and property taxes were still our responsibility, that there was no allowance for the expenses we would incur by having to vacate our place, one of the men replied, "These are your problems. Our problem is to get you out of here. We have the authority to do it and are going to do it. We have condemnations on file and we will see that you are out of here in thirty days or less if you do not agree to sign this lease. If you sign, we may be able to give you six months to a year to leave."

We decided to try to buy another ranch but found that the lease on a year-to-year basis and occupation of the property by the Army made the obtaining of any other loan impossible. Our ranch had lost all of its value. We began desperately looking for pasture to lease. After one of the treks we met a neighbor who informed us that he had seen a large column of smoke at our home the day before. We hurried to the ranch and found that the barn containing all our saddles, equipment and 10 tons of hay had burned to the ground. We reported the loss to the engineers and one of them remarked that he wasn't surprised as the Army was getting very impatient with us.

We finally found pasture for 250 cows; the rest we were forced to sell, applying the funds to our debts. The cows that we were able to keep were moved from the ranch. The stress on the cattle of moving them from their home of almost a century caused many of them to abort and the others to fail to breed, resulting in a very small calf crop. At that time the Albuquerque Production Credit Co. called our loan, and we were forced to sell the last of the cattle to pay our debt.

In the later part of 1953 we asked permission to visit our old ranch on the following Sunday. Shortly after arriving there we were accosted by two M.P.'s and forced to follow them back to the base where we were held as prisoners of war all that day and until late that night until the officer who had given us permission to make the trip returned to the base.

In the first part of June 1969 a representative of the Corps came to our house in Las Cruces and requested that my husband take a few days off and go the ranch with him. When they returned, the man told us we had been robbed on our first lease and that the Corps was going to correct this mistake and compensate us justly for our losses. He gave us a figure that would be used for the new contract. We were elated. My husband decided it was a good time to retire and did so, taking a small annuity. His retirement was very short-lived.

In the spring of 1970 the exclusive use lessees were called to a meeting at the White Sands Missile Range and informed by the Army that there would be no new lease, that the money they had been paid on the present lease had paid for the property.

In the court hearings that followed, the Federal Judge ruled that the contracts meant what the Army wanted them to mean, not what they said.

Our state land commissioner at that time refused the Army request to cancel our state land grazing leases, and we received a small renumeration by subleasing them to the Army. The return was a small fraction of what we would have made if we had been allowed to operate on the land. In 1982 the Army prevailed upon the retiring state land commissioner to cancel our grazing leases, causing us to lose the last income of any kind from our properties.

Our financial loss over the years of the Army's occupation of our property would amount to an average of $75,000.00 net after taxes and expenses per year for a total of $2,475,000 for 33 years. The value of the ranch on the market at today's prices would be over $1,000,000. If this confiscatory action had taken place in any other country, our government and the media would have been the first to violently denounce such a violation of human rights.

Today I have no ranch and the strain of cattle that had been in my family for hundreds of years is gone, and, as a displaced person, I have no heritage to leave my son who had always planned to spend his life at the Saint Nicholas Ranch.

It seems that a conspiracy existed from the very beginning of our dealings with the Army and the Corps to rob us of our most valuable possessions.

H. A. Wood
May 25, 1983

I am 84 years old. Borned Nov. 29, 1898.

Well here it comes. I came to these hills when I was a boy about 8 years old. Worked like a dog, herded goats, punched cattle, broke horses and everything that had to be done.

There was 11 children in our family and we all worked.

Well, I grew up and married and after I was married I bought this ranch that the government took. We had two boys and we were very happy there, no sickness or anything. We had about 2,000 goats and 25 horses and a few cows and was doing good but it didnt last long for along come Uncle Sam. And told us we would had to move, that he needed it for a target range. That there was a war on and we would get it back as soon as the war was over in 45. So they turned it back and came out and appraised the damage that was done went back and sent a letter telling me what the appraisal was, so I had to go to Albuquerque and talk to them. They didnt appraise it high enough. And I wouldnt take their figures so they sent a man out and he Praised the damage done, but I had to go in to Albuquerque for the price they had it Praise was not satisfactory and they sent a man out again. And we came to agreement.

So I fixed up the waters, two windmills and the house and fences and started ranching again.

The first time they run us out , they didnt give us any money, it was about 2 years before we got any money and it wasnt much when we got it.

They told us be off in 10 days, so we had to sell our stuff and get out.

All the buyers knew we had to sell, so we didnt get but half price for our stuff.

The next time they took the Ranch I think was in 48. We had a hard time getting anything out of them again.

We had to go to meeting after meeting for a couple of years before we finally got a settlement out of them.

Then it was about half as much as we could have made off the Ranch our self.

And the meetings we had to go to was pretty expensive.

The lawyers had to have a share of the loot, so when we got through we didnt have much left.

And the Praisers then came in for a lot to. One Praiser charged 1500 fifteen hundred to Praise the Ranch and then five hundred to testify.

So I think I got screwed every time I turned around and when we went out to take the Praiser out to praise the Ranch, Uncle Sam made us go around by Cruces and Engle about twice as far as it would been if they would let us go through the Range.

One time they run us out we had just got our kid goats started with the herd. And they were to smal to travel very far. They said to get out in 10 days or they would bomb our water. So we left. Hauled some of the kids.

I know there are some tings I left out but I couldnt think, its been so long.

H.A. Wood
Box 3608 Boles Acres
Alamogordo, N. Mex.
Zip 88310

Second go round

When we had to get off the Ranch we had no where to go. No money to get another start. We tried to get the government to give us enough money to get another Ranch. They said no, they couldnt do that. And we tried to get co use but they wouldnt do that so there we was no where to go, no edication, didnt know anything but Ranching.

We couldnt use the Ranch for security so then we were up a stump with a paddle. No money and no where to go.

The government has stolen our legacy to my family, our basic way of life have been destroyed and my boys robbed of their heritage.

And when we wanted to visit the Ranch they acted like we were going to steal it and pack it off. They would always send a man with us. One of my boys got a Permit to go hunting and camped in our house. And along came a Range Rider and arested hima and one or two more, took their hunting licenses away from them and took them to town. And they said there would be no cattle on the Range. But I see cattle all over the Range. So it seemed like they wanted to make it as hard on us as they could.

When they made a offer on the Ranch our Lawyers would advise us to take it for it was all we would get. They would get the check and send it to us and tell us we owed so much of the check. I think it was about 15 fifteen percent.

Mary Im sory about this scribbling But I dont write very much.

H A Ward
Box 3608 Boles Acres
Alamogordo NM
88310

Testimony of
Mrs. Laura E. McKinley, age 79
Alamagordo, New Mexico

June 10, 1983

In 1938 my former husband, the late B.O. Burris, and I purchased a ranch of one hundred sections of land located in what is now the White Sands Missile Range near Alamagordo, New Mexico. We paid a price by the head for the number of cattle the ranch would carry, as is done in all Western States regardless of how much deeded, State or Federal land was in the ranch unit. Our ranch had a permit for 450 cows year long, and we purchased that many cattle with the ranch.

In 1941 we completed and moved into a new home in October. After the Pearl Harbor incident, a representative of the U.S. Corps of Engineers came to our home about December 16th and told us that the Government must have our ranch for military purposes. This was a great shock to us; we tried to talk this man and other representatives who came later into letting us co-use the ranch with the government, but they would not agree. In the latter part of January we were told to vacate our ranch by February 15th, 1942, taking our cattle and all of our personal belongings with us. We had an Attorney help us negotiate with the Corps of Engineers, but there seemed little that we could do. They were very impatient with us, and had no thought of the disaster they were causing us. So giving up our homes until the war was over was our cross to bear. We later knew the first Atomic Bomb experiment was executed about ten miles north of our land.

A day or two before we started moving our cattle, a man came by our house and told us our neighbor Tom McDonald, an elderly man, was expecting trouble with the military people because Tom told them he was not leaving his home. The man who talked with us said he didn't know if he could get word to Tom's sons in time or not. The military sent word to Tom that an escort would be there that day to take him out. We hurridly drove to Tom's ranch and saw the military jeep with a gun mounted on it, two military police and a United States Marshal. The Marshal was standing by the jeep while Ross McDonald, Tom's son, was standing by his Dad talking to him. As we walked up Ross put his hand down Tom's arm and took a pistol from him. Tom was talking and crying, and the whole scene was heart breaking as Ross helped us Dad into his pickup. It was hard to believe what we were all going through.

On February 12th when we started trailing our cattle, and trucking our belongings, the weather was cold, sleety and windy. Trailing 450 cattle and some horses during that kind of weather was a trying experience; some calves were born on the trip to our new location at Engle, New Mexico, and we had to truck these calves and some weak cows. Even then we lost some calves and a few cows. There was no way we could get the government to let us postpone moving until April or May. We were three days moving the cattle. We were not paid any moving expense at all.

We had a son four years old, and I was expecting another child. There was no suitable place for us to live on the ranch we had leased, so we rented ahome in Truth or Consequences, New Mexico, first, and later moved to Las Cruces. Having one home for our family and a different location for our catle made our expenses almost double. We owed a lot of money on our ranch and cattle, and with added pasture and a home, we suffered severe hardships. We could not find out how much the government was going to pay us, nor when we would be paid.

Back to 1943, finally under duress we received $3,000.00 a year for 1942, 1943, 1944, and 1945 all in one check. By 1944 we had to cut down on the number of cattle we kept due to not being able to keep pasture for such a large herd. The pasture was going up all the time. $3,000.00 a year we were receiving from the government really put us in a financial and emotional crisis. We had always sold from $25,000.00 to $35,000.00 of calves and cull cows each year in the 1930's and we needed that amount to keep our debts paid. I secured a job and hired a woman to take care of my babies. We were sure we would return to the ranch as soon as the war was over, so we didn't want to go in debt for another ranch and risk losing everything we had. Due to the Governments way of handling our ranches we could not use them as security to amount to anything.

The war ended in 1945 and we were so sure we could go back home. We were allowed to go back the latter part of 1946 for a few months, and then we were evicted again. Our lease was raised to $3,718.00 a year from June 1946 to June 1948.

In 1947 I received the ranch as my sole property and at that time I leased a ranch in Catron County, New Mexico, for my children and me. In 1950 I married rancher Ira McKinley of Catron County and we purchased a ranch near Datil, New Mexico.

With the help of our Attorneys, The New Mexico Cattle Growers, and our Congressmen, we were able to get our leases raised for 1949 to 1970, but not to current lease figures which would have been at least three times what we were getting. After paying the State Land Office on land I had leased, I received an average of $6,890.00 a year from the government from 1942 to 1982. In 1970 we were told that we had been paid enough, and from that time until 1982 we were paid only a small amount on our State land. There has been no further lease of any kind paid to us since 1982 .

In 1972 the government tried to purchase our deeded land with no consideration for our Federal leased land and our State leased land as a ranch unit. There was no consideration for our permit for 450 cows year long which was in force on December 16, 1941, when the government informed us they were taking our ranch. My whole loss stems back to that date in 1941. We refused to sell our deeded land so it was condemned and we were paid $37.00 an acre, under duress. I did not sign a deed.

In 1972 the government paid me their appraised value of my improvements on the ranch, which was a low percent of my appraisal. After thirty years it was hard to find the lovely items we left and even our adobe home was in shambles as any place would be with no one carrying on the proper maintenance. I think back of my beautiful home, yard of roses, shrubs, trees, and now there is no trace of growing things. We were a growing community, loving neighbors working together, raising our families and adding our bit to the surrounding towns like anyone else.

The White Sands Missile Range has been great for all the towns near by, but it should not have been established at the expense of about one hudred and ten ranchers. Many of the ranchers are dead and their families are carrying on in our effort to receive payment for our ranch units. I still pray this will come.

January 15, 1983

Special Review Panel
U. S. General Accounting Office
Washington, D. C.   20022

Subject: Final Disposition and Payment, White Sands Missile Range
Ranches, New Mexico

Gentlemen:

We greatly appreciate your coming to New Mexico to review this matter at this time, as it is of utmost importance to the individuals involved, as well as the uninterrupted continued operation of the White Sands Missile Range itself.

Historically, we must go back to the beginning of the Range when it was first conceived in 1942 and operations first began for National Defense purposes. The ranchers were asked to leave the Range voluntarily, removing their belongings and livestock; to fend for themselves for whatever period of time it took to restore world peace and at which time the Range would be terminated and the ranches returned to the original owners. This did not occur, as the Government decided to re-lease the ranches in 1945 until the termination of the lease in 1967, where upon it was re-leased until 1970, and of course, remains White Sands Missile Range even today.

Actually, the ranches were never appraised or leased at current market values, and thus no basis for monetary consideration or reconsideration was ever established. Today, an accrual of unpaid monies to the land owners exists due to the deviation from current market values, based upon comparable leases of like properties, an appraisal point and approach to normal value, in the condemnation proceedings.

The situation which exists today is a relatively simple one; a matter of just compensation for the landowners and not a largess. We have enlisted the aid of New Mexico State University and various appraisers to arrive at a summation, comparison and capitalization value on my property and thus, after arriving at this value, can subtract out the appropriate monies paid to me and arrive at a balance owing to me from the Government. The summary of these figures on my property are as follows:

Present Market Value	$ 675,000.00
Less, Appropriate monies received for improvements	66,494.00
Balance Due and Payable	$ 608,506.00

This situation will not disappear nor go away, as it stands today as unjust and unfair treatment to private landowners and citizens of this great nation. We must therefore, move to resolve it quickly and fairly in order to allow the successful continued operation of White Sands Missile Range. We must not turn our back on the needs of the National Defense, but at this time of peace in the world, we must look at fairness and compassion for the landowners, many of whom have suffered aggravation, personal financial sacrifice and anxiety over the years of the life of this unresolved complicity.

We must also point out the similarity of this situation with that of the Teton Dam Disaster of 1976 in Idaho with which I am familiar. An almost identical crisis situation exists today with the analogy of these two events, even to both being man-made Government disasters as to their effect on the private landowners concerned.

This matter in Idaho was resolved by fair compensation being paid by the Government based on current market value for their property, both real and personal, as well as livestock, equipment and other assets. This, of course, was accomplished by the appropriate enabling legislation being passed through Congress for this compensating purpose. Such language also, now exists in Bill 3150 to accomplish this purpose fairly, in reference to White Sands Missile Range lands.

This similarity of events and the desire of the Government to justly compensate private individuals in an equitable manner, by the use of a just precedent already established in Idaho, provides all parties with a useful tool in resolving this matter fairly and finally to the satisfaction of all concerned. Your office was involved in the review and audits of the Teton Dam Disaster and your own records of the events can easily be referred to and used in comparison for the purpose of settling my account in full.

Once again, let me express my deepest appreciation for your consideration in this matter on my behalf as I respectfully submit this request for final payment for your review and approval.

Sincerely,

Laura E. McKinley

Laura E. McKinley

Alamogordo, N. M. 88310
Box 1867

Enc: NMSU Attachments & Exhibits

Footnote: All legislation in reference to the Teton Dam Disaster is contained in the Federal Register for the years 1976, 1977 and appropriate references. Teton Dam legislation was drafted by U. S. Senators Frank Church and James McClure from Idaho.

Florence W. Martin
Mrs. W. F. Martin
P.O. Box 1006
Socorro, New Mexico 87801

Re: White Sands Missile Range Ranchers Story

Our controversy is not new. The ranchers, their families, their heirs have suffered a breach of trust by the United States Government.

The story started in 1941, and has continued year by year, day by day, and will go on uninterrupted , unless hopefully, it can be solved with partial compensation for those involved. The United States Defense Department has gained complete autocratic power over the exclusive use White Sands Missile Range Rancher.

I am seventy two years young, and the roles I have played in my life have been as varied as my years.

My father and mother homesteaded and started a ranch in the beautiful Sangre de Cristo Mountains in northern New Mexico in 1908, four years before New Mexico became a state. You see high snow capped peaks, and clear, mountain streams flow through lush meadows. It is very close to heaven, it was paradise.

My life style was changed in the depression years of the thirties and a teaching position was available in southern New Mexico, at Tularosa. I changed my range as the cowboys would say. One of my minors in college was Social Studies and I was familar with the history of the Jornada del Muerto, experienced by early Spanish explorers, travelers and settlers. My introduction to the Jornada was on a deer hunting expedition in 1940 to the Martin Ranch. From Tularosa we crossed the San Andres Mountains and beheld the wide expanse of plains, the overflow draws. bordered on east and south by mountains, and on the west was a lava flow. It was the fall of the year and the rain gods had been kind. Fat cattle were visible. A comfortable ranch house with electricity furnished by a windcharger, pumped soft water for household use. Gentle and well trained saddle horses awaited us in the corrals. What fun we!! The Jornada was well known as a good deer hunting area. The ranchers provided salt, water, and protection for the wildlife abundant in the area. The days were hot, but the air became cool and refreshing as soon as the sun sank in the west.

Little did the Jornada rancher realize that war clouds were gathering, and the following year a mass evacuation would be forced upon him. His herds would be sacrificed, and he would experience total ruin and loss of livelihood. The Journey of Death awaited over one hundred ranchers, and Pluto the God of the Lower Regions would begin his reign. Rockets and missiles bearing the names of the ancient Gods would soar above, among the planets and stars. A terrible bomb was to be detonated.

The Martins, more fortunate that their fellow ranchers, found pasturage for their cattle about fifty miles away. The fifty mile drive was not easy because it was the spring of the year and mother cows were calving. The cattle did well on the new range, and four years later, when Congress failed to appropriate lease money, we rounded up our cattle and drove them home. How great it was to be there! We stayed until 1954.

During the summer and fall of 1953, we searched frantically for a ranch. There was no rain and no feed. Drouth was all over the west. Two ranches in the region were available for purchase, no pasturage for lease. I speak of region, for cattle do no adjust readily if moved to completely new and foreign feed and water. I had acquired an education in ranching while living on the Jornada. I became aware that the buffalo grass, timothy and clover, lush meadows of my northern birthplace were in no way comparable to the black gramma, tobosa, bush muhley, sacaton, and Apache plume in the

Jornada del Muerto. In the northern mountains we were required to have great hay sheds to store feed for winter. This supplemental feed was unnecessary most of the time further south.

Negotiations were started for the purchase of one ranch at $200,000.00 We had cattle but little cash. We had been dealing with Uncle Sam since 1941, and had experienced the tactics of the Corps of Engineers. Each had horns, a tail, and carried a pitchfork, none had the attributes of the Gods living above. When the question of collateral came up we stated we had a forty nine section ranch in the White Sands Missile Range which was leased by the Department of Defense, we were laughed at and shown the door.

Late in the fall of 1953 we sold one hundred and fifty head of cows and calves, but were holding out a little longer, hoping for a co-use agreement similar to the one held by the WSMR extended area ranchers.

I had returned to my former occupation, when it appeared we would be dispossessed again.

Christmas Eve, 1953, was a very depressing time for my family and me. There was no "Peace on Earth","Good-will to Man", or "Joy to the World" as we drove into town about eight o'clock, that night. Our clothes and faces were black with soot, for we had been burning wood and tires to thaw the frozen pipes in the water troughs in the corrals at the headquarters. It had been beastly cold, but we had finally succeeded in getting enough water to water the cattle for a couple of days. Santa Claus was to be at our house, and we were out of supplies and needed to pick up a few necessary small items for use at the ranch. A bath would be welcome, for the majority of our household possessions had been transferred into town. The facilities at the ranch had become very meager.

We knew we were spending our final Christmas Vacation at the ranch. The ninety day deadline was fast approaching. The cattle and horses had been gathered. We had had a buyer for our young two year old heifers. He had spent a couple of days with us, and had picked the top seventy five from our herd. They had been shipped out, but there was no buyer of the remainder. The market was flooded, and we could not pasture four hundred head of cattle in our twenty by forty backyard in Socorro.

School started after the Christmas Vacation, and one afternoon at school, I received a telephone call, that we might have a buyer for our remaining cattle. I arranged for a substitute teacher, filled the Jeep with gas and was ready to start the forty mile trip to the ranch. My four year old son, James, said to me, "Mom, I'm going with you." We put on heavy coats, gloves, warm caps, overshoes and started for the ranch. Luckily, we were successful on that journey.

The next day contact was made with the buyer, the cattle sold, for $70.00 per head. The year before they would have brought $250.00 each. Delivery was within days, as soon as trucks could be found to haul the cattle. Remember, many more ranchers were being forced to sell their cattle.

I had a military escort out when I returned to town the next day. Chaos, heartbreak, cattle and men knee-deep in mud, snow and ice in the corrals, cattle milling and bawling, Army standing by with guns, frozen water. Have you ever had an experience like that? Do you wonder why I sat and cried when those cattle trucks passed through town? Tears rolled down my cheeks and sobs could be heard as trucks faded from view. Our dreams, many years of sacrifice to build a good herd of quality cattle had vanished. The registered quarter horses and faithful saddle horses were trucked out the next day.

A couple of days later when my husband returned to the ranch to pick up our remaining household possessions, he opened the refrigerator door to find a freshly butchered beef. The soldiers had moved in and stolen one of a neighboring ranchers calves. The Commanding Officer slapped the hands of the guilty boys and reprimanded them severely. This was an administrative problem within the domain of a military reservation, outside the realm of common law. The General failed to consider the fact the boys had feasted on fried chicken for our Banty flock was missing.

No time was lost in destroying rain water tanks, capping the water wells, stealing windmills, and tearing down fences. This was a forced lease, but devastation was evident everywhere. A profitable livestock industry was annihilated,, and exotic game animals were soon imported by the New Mexico State Game Department.

For the last thirty years, I have been surrounded by White Sands Missile Range employees. The boy across the street, two neighbors down the alley, and the couple next door are among them. Customers in our store tell how they have secured hunting permits for special deer and oryx hunts from the New Mexico State Game Department. The children in my classroom at "Show and Tell Time" bring old relics and arrowheads from the Range. Sometimes memtion is made of chasing wild horses and the capture of some of them. They express pleasure at seeing the beautiful wild black stallion and regret they have been unable to lasso him.

One security man, who inspects our ruined property each Sunday had the audacity to bring four horseshoes and tell us he thought we should appreciate his consideration for us. These same employees collect equity from their homes, when they are transferred to another place, they are given moving expense money and often housing is provided until they find comfortable quarters.

A few of the Jornada ranchers have had their ranches split and have suffered curtailment of their operations. It has worked a severe hardship for them, but they have kept a remnant of their cattle, and live with hope on one side of the coin and fear on the other.

It has been a tramatic experience for all of us. We have experienced hope and depression. Some have tried other occupations for their survival, but I am sure we all have a strong fatalistic conviction that right will prevail in the final end. It will not be a Jornada del Muerto.

Testimony of
Floyd F. Caldwell Age 69
Margaret S. Caldwell Age 72
3733 Neal Road Paradise, Ca 95969

We purchased three tracts of land to form a small ranch in the Organ Mountains, in what is now called the White Sands Missile Range. These three parcels included patented land, federal land, and state land. As is customary in all ranch purchases in this area, the price was determined by the number of animal units the land would carry. This was calculated on the total acreage, regardless of whether it was state, federal, or patented.

We made improvements on one of the houses to make it livable, and improved the fences.

In 1945 we were visited by members of the Corps of Engineers and told our property was being acquired by the government for defense purposes. The government appraisal, which was eventually offered us, was less than we had paid for one of the tracts, leaving us owing a great deal of money.

About April, 1945, we were given 17 days to have all animals and personal property moved off the land. However, some members of Congress intervened and we were given an additional month. Since we could not agree on a settlement, we had no money for moving expense, finding pasture, lawyers fees, etc. We both had to find employment as we had others debts as well as living expenses. We did not like the methods used by one member of the Corps of Engineers. When trying to get us to sign, he told us that our neighbor had signed - that we were the only ones who hadn't signed. When we checked with our neighbor, he had not signed but had been told that we had and that he was the only one who was holding out.

It was approximately seven years before we received any money. Because of this we lost other property we owned. Payment received was for patented land only, at about $15 an acre. Since we bought the land on the basis of price per animal unit on the entire acreage of patented, federal and state land, we feel we should be paid in the same manner - the same way we would sell it to an individual.

Floyd Caldwell
Margaret S. Caldwell

8-12-83

It began with my folks when the Army wanted to expand its' territory it had acquired between 1911 and 1920, the land south of our ranch at the east end of Soledad Canyon in the Organ mountains.

They first approached us in 1940 with a temporary "co-use" proposal which was agreed upon by some of the ranchers in that area. Though reluctant, they realized the country was nearing war, and at that time, it seemed the patriotic thing to do. The ranchers went along with this "co-use" proposal not realizing this would be the first big step the Army would take to grab all of the land in a large strip from the Texas border to the middle of New Mexico.

Their approach to the acquisition of the private and leased lands of these ranchers from the early 40's to date has been very unjust and damaging to those people caught in the middle of the situation, and I often wonder if the end can really justify the means by which it has been implemented. Some examples of agency involvement were: the Army Corps of Engineers, the Justice Department, the War Department, and that section now called the Department of Defense. Some of their tactics were very interesting.

In 1942, when the country was well into war, anti-aircraft and artillery troop training began on and around our place and we considered it to be our way of helping the war effort, but then, things began to change. One day, anti-aircraft shells began to explode and shrapnel began to fall down in the pasture below the house, and a few that didn't explode in the sky dropped over into the canyon and would explode on impact. When my folks went down to Fort Bliss to register complaints, they were told that our place wasn't even on their maps. Even after advising them that we were there and we were living there, they kept shooting. When they did, we would all run to a cave behind the house and wait till the barrage stopped. This was our first good indication that they wanted us out of there. This kept on from time to time, as well as aircraft flying over and shooting up and down the roads with 60 caliber machine guns.

Early in 1945, an Army jeep carrying two uniformed soldiers pulled up in our yard. One of the soldiers walked up towards the house, and my mother met him in the yard. My father was out working cattle on the ranch. The soldier told my mother that he was from Fort Bliss and had orders to tell us that we had ten days to pack up our belongings and move out, as the government was taking over on an "exclusive" use basis.This was quite a surprise to us, and my mother made the men move out very quickly.

We stayed on the ranch just as long as we possibly could, but soon all the arguments were exhausted and some time that next year, we had to move. There was no compensation for moving expenses, and to make matters worse, our house was broken into and ransacked while we were making a trip with a load of furniture. The hundreds of head of livestock had to be sold, as no pasture could be found for them, and as it was not prime market time, they brought a low price.

The only consideration given by the court was the patented land, 880 acres. There was no allowance for the thousands of acres of Taylor Act grazing leased lands, a five room house built in 1929 by my parents own hands, with materials hauled in from Alamogordo, and Las Cruces. The water pipeline system, the corrals, fences, watering troughs, and water tank weren't considered. Also, one of the most valuable possessions, the permanent Soledad Canyon spring, with the most abundant supply of water in the Organ mountains, nor the number of livestock the ranch was capable of supporting was not taken into account. Though reimbursement,of sorts were made, the total amount was so small that after lawyers fees were paid, there was no way my dad could start over - he tried, but never quite made it.

While all this was happening, it is interesting to note some of the manuevers employed by the afore-mentioned agencies. The Corps of Engineers would try to convince the ranchers that the others nearby had settled, when in fact ,they had not. This was designed to split the soladarity the ranchers could have had.The ranchers were told they didn't have a chance in the courts - they certainly were right about that. The government spokesmen tried to make the ranchers believe their land was worthless, for anything but government use.

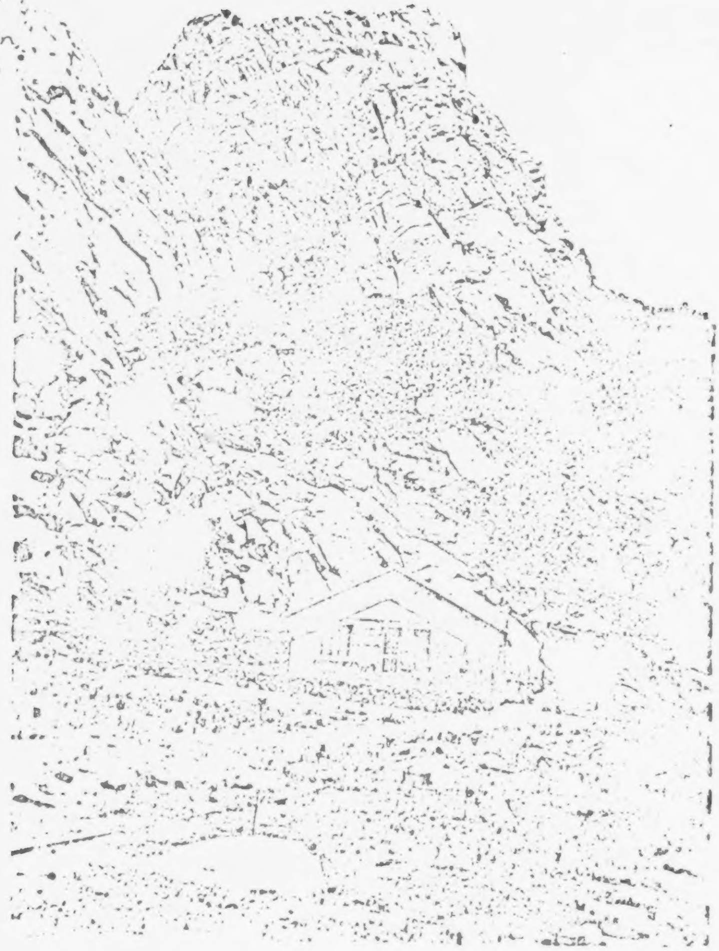
After it was all over, in 1952, when we realized it was not going to be possible to hold onto all that had been our own - the ranch that had supported two generations of a family, and had provided a good living for us, even through the depression - we watched it all crumble away. The effect this had on our family was very grim, indeed.

Our neighbor, old John, across the flats on McGregor Range saw what had happened to his neighbors in the Dona Ana Range, and when faced with the same problems late in the 50's, handled it differently,and some way convinced Uncle Sam to listen a little better.

I feel that all the time these events were beginning to take place, the government knew that it's over-all plan was to take all the land ih the Tularosa eventually. They were testing their methods and approaches for the future expansion.of military lands. These first cases were tests for the "White Sands Land Grab Proving Grounds."

Jim S. Beasley
P.O. Box 731
Mesilla Park, NM 88047

The Beasley
place at the
east end of
Soledad Canyon
Built in 1929



JB

THE UNIVERSITY OF TEXAS AT AUSTIN
Texas Archeological Survey
BALCONES RESEARCH CENTER
10 100 BURNET ROAD AUSTIN TEXAS 78750

August 29, 1977

Dear Mr Beasley -

Thanks so much for the notes and photographic identifications. They were very helpful, and certainly have made my writing easier.

I have one more puzzle to clear up, though, and thought you might be able to do it for me. Is there any chance that photo #1 was Albert Beasley's home? I realize that sometimes one person owned the land & another built on it, but the deed records indicate that Albert patented the property and later sold it to Evelyn Beasley Fields.

Again, thanks. I'll be sending you a copy of the paper in rough draft in a month or so, so that you can change anything I might have made a mistake about.

Best wishes -
Martha

Texas Archeological Survey
THE UNIVERSITY OF TEXAS AT AUSTIN

OCT 11 1983

October 26, 1976

Mr. Jim Beasley
El Paso Electric Company
Mesilla Valley Division
201 North Water Street
Las Cruces, New Mexico

Dear Mr. Beasley:

I'm sure you've already guessed that we didn't make it back to your neck of the woods during October. Our delay has been due, mainly, to attempts to finish a report on McGregor Missile Range which is due November 1. But once we turn that in, we'll be able to return to New Mexico and continue the survey work begun in August.

Shortly after we returned to Austin, we were informed that the entire Organ Range has been put off bounds to the survey--something that no one here is happy about since that area undoubtedly is the richest in archeological and historic sites. The archeologists are out on a limb since they can't report what they can't see. But at least I can continue to do archival work and talk to people, such as yourself and the Coxes, who have immediate memories of the area.

Many thanks, again, for your help to date. I'll look forward to talking to you more around the end of November.

Sincerely,
Martha
Martha Doty Freeman

BALCONES RESEARCH CENTER • ROUTE 4, BOX 189 • AUSTIN TEXAS 78757

THE UNIVERSITY OF TEXAS AT AUSTIN
Texas Archeological Survey
BALCONES RESEARCH CENTER
10,100 BURNET ROAD · AUSTIN, TEXAS 78758

September 27, 1977

Mr. Jim Beasley
Box 731
Mesilla Park, New Mexico 88047

Dear Mr. Beasley:

Enclosed is a rough copy of the portion of the completed Doña Ana text which pertains to your family. I wanted you to see a copy of it now so that you could send in any corrections or changes you might want to make. A copy has also gone to Mrs. Clay.

The printed text will include photographs and maps, and you'll be sure to get one, although I'll have to warn you not to hold your breath. Our publication process is notoriously slow, but I hope you'll be pleased with the result.

Thank you for letting me borrow the Soledad photographs. They were helpful in clearing up some muddled points.

Best wishes,
Martha
Martha Doty Freeman

several thousand head of cattle on it (*Rio Grande Republican* December 5, 1885: 3). Sometimes he placed them in the Organs; on another occasion he drove them to the Weems Ranch in the Burro Mountains (*Rio Grande Republican* April 16, 1887: 1). He appears to have used the Doña Ana property for at least half-a-dozen years, and his family held on to the land until 1909 when they finally sold it to A. M. Kezer for $500 (Doña Ana County, Deed Record 33: 245).

If Mayer Halff was primarily a cattle raiser, several other stockmen concentrated on sheep and goats. The Moody Brothers and Jeff Ake were sheep raisers who were roughly contemporaneous with Halff. They also operated about the same time as Benjamin Davies at San Augustine. In fact, the four men butted up on one another in range, with the Moodys and Ake controlling the mountains around Soledad Canyon east to Globe Springs, Davies picking up the range at Globe and following the mountain flanks north to San Augustine Pass, and the Moodys again appearing on the other side and operating from sheep camps on the north side of the Pass. Sheep corrals, such as those near Globe Springs, used by all four men, provide material evidence of their activities along the entire eastern fact of the Organs.

Ake once said that the Moody's, "two old men," were already living in Soledad when he moved there in the mid-eighties. Their names were Henry and T. J., and their rock house probably stood on or near the site of the present J. D. Isaacks house, mid-way up the canyon. Jeff Ake's claim was down canyon, and wasn't actually a homestead, but rather a mineral claim, "the easiest way to hold land there." Ake was given forty head of cattle, and bought 800 head of sheep which he drove up Soledad. Then, he made a deal with the Moodys to supply them with rams and salt while they tended his flock (O'Neil 1935: 145-146).

Apparently, it was difficult to support a family on the proceeds of a limited livestock business, and so the men often took work in a nearby town. Ake occasionally worked for other cattlemen, such as John H. Riley at the Cuevas, or Max Goldenberg (*Rio Grande Republican* May 16, 1885: 3; July 4, 1885: 2). He earned fairly good wages as a miner (U.S. Bureau of Census, Doña Ana County: 1885). Eventually, however, all three families ended by dividing their time between Soledad, and Las Cruces or Organ where their children attended school. In late March the *Rio Grande Republican* announced that "Mr. Jeff Ake and family and Mr. Henry Moody and family of Soledad, will remove in a few days to Organ to reside" (March 28: 2).

The Moodys continued to be interested in Soledad Canyon throughout the 1880s, prospecting for minerals when they weren't tending their flocks (Doña Ana County, Location No. 5: 802). But eventually, a chance came along to sell out, and they took it.

In 1888, two families named Beasley and Isaacks came to the Organ Mountains from Texas. They were part of what the *Rio Grande Republican* noted as a large migration which had been instigated by severe droughts in Texas in 1886. They had heard that there was free land near Magdalena, and feeling that they had a chance to start afresh, they began the long trek which eventually ended in the quiet solitude of Soledad Canyon (May 10, 1886: 2; July 3, 1886: 2).

The two families had similar Southern backgrounds. The Isaacks originated in North Carolina, and Texas where most of the children were born. By 1870, they had settled in Erath County on Paloxy Creek. Nancy Isaacks, thirty-seven, was raising four children and making a living for all of them as a farmer (U.S. Bureau of Census 1870: Erath County), a function her son, Jefferson D., had taken over by 1880.

Two counties away, the Beasleys had recently emigrated from Alabama. In 1880, George Beasley's family consisted of himself; his wife, Virginia; their two sons, Austin and Amos; a mother-in-law, Mary E. Briley; and brother-in-law, Gorden [*sic*] A. Briley (U.S. Bureau of Census 1880: Brown County).

It is unclear when the Isaacks began their move to New Mexico, but the Beasleys took five or six years to immigrate. Excited by news of good cattle country and free land, they set out in a covered wagon with a few head of livestock. From time to time, they would make brief stops along the way, the two older men using the opportunity to earn a little extra money at odd jobs. They finally arrived in the Sacramento Mountains in the late fall of 1887, and joined up with the Isaacks (Clay 1977).

About June or July 1888, after a hard winter of deep snows, the two families left the Sacramentos and trekked across the Tularosa

Basin to Mayer Halff's range in Boulder Canyon. They settled in at South Dripping Springs where the Beasleys built a little rock and mud house and began to scout around for land. As luck would have it, their arrival coincided with the Moody's decision to leave Soledad Canyon, and so George Beasley and J. D. Isaacks pooled their resources and bought them out. The Isaacks moved into a rock and mud house about half way up Soledad, where James Isaacks patented the Ne¼ Sw¼ of section 21, T23S, R4E, containing forty acres in 1892; and his brother, Jefferson D., patented 120 acres nearby, in the Nw¼ Sw¼ of section 21, and the E½ Se¼ of section 20, T23S, R4E, in 1893 (Doña Ana County, Deed Record 16: 146-147, 371-372). The Beasleys ventured further down canyon, locating a spring, but retaining the right to run their stock on the Isaacks' property (Clay 1977).

Life in Soledad must have been an idealic conclusion to the long, hard trip from Texas and disappointments in the Sacramentos. The canyon was one of the most beautiful in the Organs, and unlike later ranchers on the flats to the east, no early inhabitants of Soledad ever had to worry about water. Springs flowed the length of the canyon, and winter snows usually assured plentiful water throughout the year. Game abounded, and if the country was too rough for large herds of cattle, it was excellent for sheep and goats. Mountain lions caused problems, but the ability of J. D. Isaacks and George Beasley to track the cats down became legendary among their neighbors. Within ten years, the two men had killed over fifty lions (Clay 1977, Raynor 1971).

On August 1, 1898, J. D. Isaacks purchased John H. Riley's ranch on the western slope of the Organs (Doña Ana County, Deed Record 20: 53). His move left the Beasleys the largest group of permanent residents in Soledad Canyon, and within twenty-five years they had solidly blocked up the area. In 1900, George and Sarah Beasley and eight of their twelve children[28] settled at a homestead purchased from Ezekiel C. and the late Amanda Rucker who had patented the land in 1898 (Doña Ana County, Deed Record 21: 45, 46-47). Located in the S½ Nw¼, the Ne¼ Sw¼, and the Nw¼ Se¼ of section 23, T23S, R4E, the property was about a mile east of what the Beasleys called the Old Place. It was nestled in among hugh boulders by Soledad Creek, and had a breathtaking view of the Tularosa Basin to the east.

Up canyon were eighty acres Beasley purchased in 1916 from Jesus Martínez, a goatherder for one of the Ascarate daughters (Doña Ana County, Deed Record 57: 381). Still further west was the Isaacks' rock house which a couple named Mox and Minnie Morgan had moved into while they prospected in the area (Beasley 1977a). Immediately north, across the arroyo, was Joicy Beasley Markham's property which included the family cemetery for the Isaacks and Beasleys. Her house, constructed by the slip-form method, was a simple concrete structure which was sited on a hill above Soledad

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[28] The Beasley children were Austin, born in Alabama in 1878; Amos, born in Texas in 1880, died at the Old Place in 1895 of pneumonia; Evalyn, born in Texas in 1882; Houston, born in Texas in 1884; Emily, born in Texas in 1886, died at the Old Place of scarlet fever in 1894; Nancy, born in 1890 at South Dripping Springs; Joicy, born 1892; Foster, born 1894; Iva, born 1896; Robert, born 1899 at the Old Place; Arthur ("Buck"), born 1902 at the Rucker Place; and a boy who was born in Las Cruces and died in infancy (Clay 1977).

Creek. It was located on part of 320 acres she patented in 1918 in portions of sections 19, 20, and 30 in T23S, R4E (Beasley 1977a; Doña Ana County, Deed Record 58: 167-168).

West of Joicy Markham was Houston Beasley's home, built on land patented to Albert Beasley, which consisted of another slip-form, four-room concrete house, an outhouse, rock sheds, and a well which was dug about twenty feet deep by hand and walled with concrete and rock. Because it was located near the creek bed, the well walls extended above ground level four or five feet. When flood waters occasionally spilled into the well, it had to be bailed out and cleaned. Beasley initially operated the well by hand; later he installed a water pump with a gasoline, one-cylinder pump engine (Beasley 1977a).

South of Houston Beasley, and extending into the upper reaches of Boulder Canyon, were 320 more acres patented by George Beasley in 1918; while four years later, his son, Foster, patented 320 acres which ran south of the Rucker Place starting at the southernmost point of the Cox fence and continuing along the face of the Organ Mountains about one-and-a-quarter miles. Finally, in 1926, another son, Albert, patented 480 acres located in the northern portion of Long Canyon in the Se¼ Sw¼ of section 30 and the E½ Nw¼, Ne¼ Sw¼, and E½ of section 31, T23S, R4E (Doña Ana County, Deed Record 58: 166-167; Deed Record 64: 341-342; Deed Record 74: 266-267).

Prospecting and stockraising were two activities that occupied most of the Beasleys all of the time. Iva Clay, daughter of George

Beasley, couldn't remember a time when her father didn't carry a pick and sack with him as he walked through the mountains (Clay 1977). He had started prospecting early, occasionally throwing in with E. C. Rucker or the Schneiders, and some of the the holes he either discovered or provided witness to included the Good Hope Mine (relocation) about one mile east of the Davies stone corral and lumber house (1890), the Poor Boy Mine one half mile west of Dripping Springs (1890), the Freman [*sic*] Defeat near the Good Hope on Soledad Creek (1891), The Soledad Gold Mining Claim near the mouth of Soledad Canyon (1908), and the Carara Mine located east of Dripping Springs in 1910 while he was in partnership with A. F. Schneider, Austin Beasley, C. J. and Walter Rasamussen, and George Hohenberger (Doña Ana County, Mining Claims No, 6: 165, 293-294; Mining Claims No. 9: 234, 382).[29]

If interest in prospecting ever flagged, it could usually be revived by the groups of miners and treasure hunters who periodically came through Soledad to look, and to stay with the George Beasleys. The Morgans at the old Isaacks place were permanent fixtures, but there were other people who came from El Paso and the Mesilla Valley. Monahan's and Ballinger's mines near the Rucker Place were named for the men who claimed them and then dug dozens of holes in the vicinity. For years, a man named Lucas came by with his burros. Others looked for the lost Padre La Rue

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[29] Fred Schneider was especially active in Boulder Canyon about this time. In July 1912, he discovered the Barytes No. 1 and No. 2, both one-half to one mile southwest of South Dripping Springs (Doña Ana County: Mining Claims No. 9: 582, 583).

Mine, and Jim Beasley remembers Mexican nationals who came by the Rucker Place even through the 1930s to ask his father about the area. Their interest in the Beasley's place stemmed from the fact that a document describing the location of a lost mine mentioned tules nearby, and the only tules in the area were on George Beasley's land near a lean-to used by the Morgans (Beasley 1977a, Clay 1977).

But prospecting could hardly put meat on the table, and so all of the Beasleys were stock-raisers--a more profitable, if mundane, occupation. According to Iva Clay, George Beasley started ranching with sheep, and it is possible that a purchase of 339 head for $340 from William Dessauer and A. G. Smith of Las Cruces on June 11, 1890, represented his initiation into sheep raising (Beasley various dates, Clay 1977). Later, around the turn of the century, he diversified some, keeping not only sheep, but some cattle which he penned up in the stone corrals at the Rucker Place (Clay 1977).

After 1900, the Beasleys seem to have emphasized goat raising. They owned at least 1,700 head of high grade Angoras in 1906; at one time, Iva Clay remembered that her father had about 2,000 goats under open range, a situation that didn't always please their neighbor to the north, W. W. Cox (Doña Ana County, Chattel Mortgage 4: 34; Clay 1977).

Although George Beasley appears to have kept some cattle prior to World War I (he had at least 300 head in 1907), he concentrated on raising them only after 1918 when he sold his goats. At the Rucker Place he kept about 400 head, and they ranged up and down Soledad Canyon and out towards Globe Pasture to the east (Doña Ana County, Mortgage Record 8: 388; Clay 1977).

With the produce from their herds, the Beasleys were almost self-sufficient on their Soledad homesteads. They kept pigs, and always had a milk cow or two. There was a garden at the Rucker Place where they grew peaches, corn, and what other vegetables they needed. Water for the garden was taken from a pipeline that worked by gravity flow from a spring one mile distant, or from Soledad Creek which was sometimes known to flow past the front door of the house, and continue through Globe Pasture to fill Davies Lake west of the Cox Headquarters. Other needs were taken care of in the course of six-day round trips to El Paso, forty miles distant from the Rucker Place, or by summoning Dr. Johnson from Organ, twenty-three miles away (Beasley 1976, Clay 1977, Johnson n.d.).

Eventually, as the children grew up and needed schooling, the Beasleys faced the same problems that the Moodys and Jeff Ake had. For two or three winters, Mrs. Beasley took the children to El Paso; another time, she rented a house in Las Cruces. But Iva Clay remembers that in the end they got precious little education. "All we got to know was by the hills--being out in the hills" (Clay 1977).

George Beasley died in Mesquite on February 5, 1931 (Doña Ana County, Probate File No. 712: Affidavit of Custodian of Will). His body was brought up from the west side and buried in the Beasley-Isaacks cemetery beside those of his children, Emily and Amos. Another son, Robert, took over the Rucker Place and raised his own family there. A new generation was growing up in Soledad now, and most of the grandchildren of George and Sarah Beasley intended to share in the life they and their parents had always known.

In 1940, the Beasleys received their first intimation that the life they had taken for granted was threatened. Desiring to expand the territory it had acquired south of Soledad Canyon between 1911 and 1920, the United States government approached Robert Beasley with a co-use proposal. Under the terms of the agreement, the Army would use the Beasleys' land and four-room house, but the Beasleys would be able to graze their livestock in Soledad. The agreement was to run from December 1, 1940, to June 30, 1941, and be renewed yearly until June 30, 1951. Annual rental for the land was $1,352.88 (Anonymous n.d.: App. 4).

On February 20, 1945, ten days after the Beasleys were told to evacuate their house, they were informed that the government wanted their land on an exclusive-use basis. The implication of the agreement was that the Beasleys could not use their land for grazing purposes and they could not live on it. Oddly enough, the amount of money offered for exclusive use was dramatically less--by almost one-half--than that for co-use. Naturally, the Beasleys refused the contract, and within a year the government had all but condemned the property.

The initial appraisal of the property was unacceptably low, and after years of fighting the condemnation action in the courts, the

Beasleys were left with less than $15,000. The money was not enough to begin over again, and Beasley, who had always worked for himself, now had to find work with neighboring ranchers out of the Range boundary. He died in a county hospital in Phoenix, Arizona, in 1963. His wife, who died soon after, never did recover from her sense of bitterness and loss.

May 30,1983

To Whom it May Concern,

The purpose of this letter is to relate a very brief history of the relations between the Army Corps of Engineers and owners of the Love-Owen ranch in the San Andres mountains of New Mexico. We acquired the ranch in August of 1945 from a Mr. Gray in trade for a farm in the lower valley of El Paso.

Soon after acquiring the ranch, a Mr. Cobb of the Corps of Engineers contacted us and told us our ranch, of approximately thirty thousand acres, would be used by the government on a co-use basis. Before long, the Corps of Engineers notified us that they wanted an exclusive lease on our land for the purpose of firing missles. Mr. Cobb presented us with the lease which would last for a twenty year period after which time the ranch would be returned to us in its condition when the lease began. There is a clause in the lease which made provision for another twenty year lease if necessary. We were to move off the ranch by the summer of 1953.

We had to move off the ranch quickly so most of the livestock had to be sold in haste. The result was a lower than market price. We were given no moving expenses or helped in any way. As a matter of fact some of the livestock were shot by the Army because we did not move quickly enough. We disposed of the remaining livestock (mostly horses) by having friends and others keep them since we did not want to part with them.

Since it appeared we would get the ranch back in twenty years it was decided to lock and board up the ranch with the furniture inside. It wasn't long before people began to break into the house and steal things. After these instances of theft, we contacted the Provost Marshal at White Sands and were told to remove the furniture. Also we were denied access to the ranch if we did not have a military escort. Furthermore our wells were capped by an army welder. Whenever we went to the ranch with an escort we were treated like people from a foreign nation. At one time, after going through channels to gain access to our land, the M. P's. wanted to put an I. D. tag on my two year old daughter. I say this to illustrate some of the extremes the military went to during those times of the twenty year lease.

At the end of the twenty year lease, all the ranchers from the White Sands area were asked to meet at the missile range headquarters. We thought it was to inform us of another twenty year lease on our property. We were greatly surprised at the meeting by the statement that the Army was taking over all the land since, in their opinion, the land was practically "worthless" and good for only shooting missiles. This was said of land that had adequately sustained three hundred head of cattle and had excellent wells and ground water. Immediately the ranchers organized as a group to defend their right of just compensation as guaranteed by the United States Constitution.

During the late 1970's we were requested, by the Corps of Engineers, to appear at the courthouse in LasCruces, New Mexico to have a group of commissioners hear our side and the military's side in the land case. The Corps of Engineers had all the wealth of the United States government behind them with appraisers and a battery of lawyers. We had ourselves and our lawyer. We could not meet an appraiser's high expenses at the time.

To conclude, the Corps of Engineers paid us a little over fifty thousand dollars for our improvements which included wells, fencing, houses, barns, tanks, roads, and developed springs and about nine thousand dollars for our two hundred and forty acres of patented land, The land had a water table at sixty feet below the surface. They paid us about thirty seven dollars an acre. I challenge anybody to try to find comparable land at that price anywhere in the United States or to build a ranch house, barns, roads, fencing and etc, for fifty thousand dollars. They have not paid us anything for the state land as yet or for the total carrying capacity of livestock.

Our ranch as a unit, under the Taylor Grazing Act, had a carrying capacity of about three hundred head. Ranches in the western United States are bought and sold as a unit under the Taylor Grazing Act. The Corps of Engineers did not buy the ranch as a unit.

We have priced comparable ranches in our area and can find none priced under three hundred thousand dollars while some are five hundred thousand dollars. The Army Corps of Engineers, through a drawn out process of misrepresentation and outright deception, has acquired a three to five hundred thousand dollar ranch for sixty thousand dollars if they do not complete the payments on buying the ranch as a complete unit. However, if they do not want to complete the payments for our ranch, then at anytime I would be glad to raise the sixty thousand dollars which they have paid so far and pay it back. If we had a choice we would rather have the ranch than the money.

Sincerely,

J. Dale Owen Jr.

P. O. Box 1111
Canutillo, Tx. 79835

THE JAMES A. BAIRD, ALONZO EUGENE BAIRD, WALTER M. BAIRD and D.I.Z. LIVESTOCK COMPANY RANCH STORY

I am James A. Baird. My wife Eda A. Baird and I live in Rio Arriba County, near Chama, New Mexico in the summer time and in Las Cruces, New Mexico, in a travel trailer, in the winter time. I am 70 years old, soon be 71. Born August 23, 1912. I am manager of the D.I.Z. Livestock partnership, which owns 2 ranches on the White Sands Missle Range located at Gardner Peak in the San Andres Mountains and at the South West point of the White Sands.

My Grandfather, James A. Baird of Buncombe County, North Carolina, for whom I am named, established the Baird Ranch in 1896, driving his cattle and horses West from Mason County, Texas to Mayhill in the Sacromento Mountains in 1885. His wife, Mary Head Baird, 3 sons and a daughter established a cow ranch there until 1896 when they bought the San Andres ranch, with the Upper Well. Grandfather Jim lived and improved the ranch with the help of his family. They drilled the Headquarters well in 1900, built an adobe ranch house, built corrals and holding pastures. Fourteen springs were filed on and cleaned out in the canyons. Gene the oldest son, Nanny the oldest daughter and son Wallace helped with the improvements when they were not in school for which the family moved to Las Cruces. Walter M. Baird was born in Las Cruces. In 1897 Grandfather moved his wife Mary to El Paso for her health. Nanny married Herbert J. Mc Grath and moved to Trinity Ranch near Silver City, New Mexico. Wallace lived with his mother in El Paso, and Gene ran the San Andres ranch. In 1911 Gene married Myrtle Lewis of Gullispe County, Texas, and when their children were born, he bought a farm in West Tularosa in 1914. Myrtle and Gene raised their family there because it took only about 6 hours to ride to the ranch on horseback and when they bought a car it took about 4 hours in the 1920s.

James A. Baird moved his family back to Alamogordo, in 1907, and served Otero County as county Commissioner, County treasurer, and when A-lamogordo was incorporated , he served as city treasurer. He also served the county of Otero in the Legislature from 1916 to 1920. He and Gene bought the Jim Hunter ranch at the point of the White S.ands about 1910 or 11.

When young Walter was old enough to live and work at the ranch, Gene taught him all he knew about ranching. Walter went to school at New Mexico Military Institute and s-erved in the Vetinary Corps in World War I in France and returned shortly before his mother died in 1918. Mr. James A. died i-n 1921 and was written about in Twitchells *His-tory of New Mexico*.

Gene's and Myrtle's three sons were myself, James A., Jack Fall Baird and Alanzo Eugene Jr. , all learning farming and ranching as a part of the family. Gene wanted his oldest son to be the family business manager, so when Jim graduated from Tularosa High School he enrolled at New Mexico Aggies in business administration. Jack majored in animal husbandry at the Aggies and "Steamboat"(Eugenes nick name) majored in agronomy and ranch management at the Aggies.

Gene Baird served as a member of the Cattle Sanitation Board, Myrtle served on the Tularosa S.chool Board and Gene was on the Tularosa State Bank Board of Directors. During the depression the bank went broke and he had to forfeit the farm to pay off the creditors but the familysattitude was that the boys were already through High school and the ranch must be preserved at all cost.

All three Baird boys took military Science at New Mexico State University and when World War II started all three were called into active service. I was sent to the Pacific, Steamboat was sent to the European Theatre and Jack was PMST under Col Chilton, until he was sent to Germany for Occupation.

Mother died of a heart attack at the ranch in 1937 and while attending a Grazing Board meeting in Carrizozo in 1939, Dad died of a ruptured appendix. At his death my two brothers and I, with uncle Walt, formed the "Walter M. Baird and Company" in partnership.

In the fall of 1945, Walter M. Baird and Company had bank deposits of $45,000.00 for cattle sold for that year. In 1941 parts of the Baird Ranch was used as a safety area by the Alamogordo Bombing range in Co-use. We were paid about $345.00 per year rent for the use of 35 sections.

In 1947 after much deliberation, the three boys bought Uncle Walt out for $100,000.00 promising to pay so much a year for both ranches and cattle. The three brothers, Jack, Steamboat and I and our families formed the DIZ Livestock Company, in partnership. The DIZ brand was brought to New Mexico from Texas, in 1885, and we still had that same strain of cattle with upbreeding when the DIZ partnership was formed. I was appointed DIZ Livestock manager and moved my family to the ranch.

Within a couple of months after moving, a Corps of Engineers representative came to the ranch and told me not to do anything to the ranch as we would be gone within 6 months. What a shock after just completing the ranch turn over, to learn that we could make no plans.

So, Steamboat had a young family to support so he went back into the Army and was soon called to Korea. He had three children: Sandra, Mike and Celeta. His wife Scotty died in 1955 and Steamboat had to turn to his ageing Aunt Celeta in San Antonio. He was retired from the Army in 1960. His son Mike was drafted into the Army and was killed in Viet Nam. Steamboat, broken hearted, died in 1972 after a long illness.

Jack, knowing he could not live on the ranch, took a job as field man with BLM. His wife Martie started teaching school in Las Cruces to make a living. Things were very tough for them with their two sons to support. Eugene and Jim started school there.

In 1952 Jack finally rejoined the Army and served until his death in Los Angeles, with a heart attack, in 1963. His wife Hortie continued to teach school in California until her retirement in 1977, sending both boys to college at Berkley. Eugene is the oldest and Jim is the younger. All three of them still live in California.

We, my wife Ida and our young son Jack lived on the ranch. I made enough with steers, old barren cows and old bulls to pay Uncle but there was very little to divide with my brothers. We had a Co-Use agreement with WSPG. They told us when to get off, so we bought a house in Las Cruces to go to when we had to leave. In 1949 we were living at the Hunter Place with a hired hand living at the San Andres who helped me round up cattle and horses and we took them to pasture at Threerivers on Roy Tuckers place. We had sold off many of our horses keeping only a few old favorites.

In early 1950 a Jeep with three M.P.'s in it, gun on hip, arrived and walked on the front porch yelling for me. Menacingly, one said," You have 24 hours to vacate this property." With out giving us a time to answer they returned to the Jeep and headed toward the other ranch. We had a holding pasture full of cows and steers that were to go to Clovis to market. We had a corral full of old bulls that were to go to Las Cruces for sale. The hired hand helped load cows when the cattle truck arrived and helped load the bulls in a bob-tailed truck, before he left to go tell his wife to pack up and get off. I went to Clovis with the steers and my pregnant wife and son took the old bulls to Las Cruces. On the way the truck full of bulls, had a flat, half way up Organ Pass. A station man came back out to get the flat fixed for her, and she finally got the bulls delivered. Needless to say she spent the night in town. The next day she returned to start packing. When I got back a day later I told Her about a meeting we had had at Hadley Hall at the University a short time before.

A meeting of the involved ranchers called by a Major General from Fort Bliss had a Colonel from Washington address the group. The text of his address informed us that if the Army wanted the land, the Government would lease it for five years or buy it outright. A month later the same Colonel came back to another called meeting. This time he said:" I'm sorry I mislead you. We will lease the ranches for twenty years". No wonder we didn't know which way to plan ahead.

What do you take when you vacate a place that a family has lived in for sixty years? We left furniture, beds, stoves, our wind machine for electricity, trailers, cows, horses, a garden and all of our dreams. Ihad dreamed of raising our carrying capacity to 1200 head. T-he Hunter Place included about 65 sections with only two wells for permenant water. Two wells only 2½ miles apart. The underground was salty and undrinkable a part of the year. We needed another s.ource. One inch of rain on the surface acre is about 25,000 gallons of water . In our area there is 93 inches of evaporation a year , so I planned a catch basin with a slope to drain rain water into an underground storage basin. This would be less expensive than drilling wells with windmills. The catch basins could be spaced for Maximum grazing. There would be another 40 or 50 sections that had seldom been used because there was no permanent water.

At the mountain ranch there were 9 or 10 places in the canyons that were narrow and deep with at least 30ft. of sol-id rock. With a dam across the canyon with a drinking trough below the dam would increase several acres of grazing. An area that we called White Rock had about 5 or 6 sections (Map Sections) that had never been grazed much. I had never ridden over that area that the side oats grama grass did not touch my stirrups. The area was not too rough, and with the canyon dams for water this plan woud allow considerable more grazing capacity. These dreams would allow the 170 section on both ranches to carry 7 head per section raising the carrying capacity from 800 to 1200 head.

Living in Las Cruces, still riding range when allowed to find strays , a hired hand and my wife and I finally got all the ranch parafenalia that we had a place for and most of the stray cattle and horses off the two ranches in our old red pick up and the bob tailed truck. It was a bad year in 1952 so we had to move our mother cows from the Tucker spread to Valmont because of the drouth. Our calf crop was practically nil and we finally had to sell those poor sttrving things therefore we got very little for our cows. We hated to sell our mother herd because it was a strain that the family had kept and up-bred coming out of Texas in 1885. But having to my Uncle, having to pay rent for pasture we were going broke so we had to get out of the horse and cow business.

We moved permanently to Las Cruces, my wife had to teach school And I sold Real Estate to make a living. All the lease money we recieved from the government went to pay off Uncle until his death in 1962 and the rest was divided three ways after minor expenses were paid. I used a part of my share to go into the investment business with Mr. Chester Adams and continued in that business until I retired in 1976 when I was 64 and could draw Social Security. My wife retired from teaching in 1977. We live on my social Security, her teacher retirement and my military retirement.

During all those years we recieved the lease money which was divided 3 ways, we were all sure some day we would be back on the ranch because our contract with ~~Corp~~ Department of the Army said so. Our oldest Son, Jack, majored in Agriculture because he wanted to move on to the ranch in 1970 when our lease was up. Our second son, Steve, majored in business so he could help manage the ranch when we moved back in 1970.

The White Sands Missle Range did not give us back our ranch in 1970. We were allowed on the ranch 2 times. With a guide and closely supervised we took our son, Jack, back to the ranch when he returned from Viet Nam. The other time we went on with nephew Jim and our daughter Dana when we finally got permission to go. It was a sad sight. Windmills were torn down. The two headquarters buildings were torn down. The corrals were torn down. The one at the San Andres had had a bulldozer ~~and~~ cut a path for a phone line going East and West right through the middle of the corral and another path going North and South for a power line, again, right through the middle of the corral. The acid bottles of the wind machine were all smashed and the wind machine was completely gone. I could not sleep for a month afterward, grieving over what we saw on that conducted tour. Our family had always been very patriotic. Uncle, myself, Jack, Steamboat, Ele, young Jack and young Mike had all served our country in the Army. We support our political party, we support our city (count and State) proud to be New Mexico natives but I'll tell you, after seeing that ranch, I was a very disallusioned citizen.

Each year, because we had that capital gain on the ranch lease, my wife and I had to borrow money to pay our income tax. It took us all summer to pay it back so we never got to go on a real family vacation.

At the end of the lease payments the Government, not being able to condem our state leases, thanks to the State land office, had to make an agreement with us for our State Land leases. The amount was a minimum, the only way the dear Corps of Engineers makes deals. One year, with options for another 9 years. In 1980 they renewed the state lease for one year with option for another 9 years. This amount was somewhat better than the first but that payment stopped 30 Sept, 1982.

In complying with the original lease to replace improvements, their first offer for two headquarter houses, four sets of corrals, five windmills, twenty-one miles of fence was $9,550.00 . It was sickening to the extent that I will never have any regard for the Corps of Engineers . Trips to A-lbuquerque to talk over the offer with them was fruitless because when I wrote for an interview the letter was never ans-wered, or when I tried to see this government official in person he wa-s always on vacation or sick or out of town for the week. We turned it over to our lawyers in Roswell, to negoiate and they finally came up with $56,000.00 with $10,000 going to the lawyers.

The first offer for our deeded land was $43.00 per acre. Highway 70 ran through a corner of 40 acres with 605.21 ft frontage on the East side of the deeded property and with 1.915 in all. On the west side of Highway 70 the frontage was 824.79 ft. with the balance of the fourty acres available for development. There was another 80 acres of deeded land adjoining the above mentioned 40 acres with a dug well and a drilled well. In any other place in New Mexico this acerage would be desireable land. I finally had to settle for only $6,716.00 for 160 acers of deeded land near the White Sands monument. It was just impossible to fight the Corps of Engineers on their appraisels. There was no other privately owned land on Highway 70 for 22miles to the West Nor 15 miles to the East.

Such as it is. A-n invetment in Ranching covering three generations always looking forward to the " Good Life" , has gone down the drain. The lease payments stopped in 1970, and with Government lease of State Lands, for which we had to continue paying the S-tate, left few dollars to distribute with my two partners, due to the U.S.Gov Government we are left out in the cold. They wont buy it honestly, we can't rent it, we cant sell it and we can't get back on it, so, we are left out.

The D.I.Z. Livestock brand for cows has been in the family for over 100 years and the D.Z. brand for the horses for almost as long. We had a carrying capacity from B.L.M. for 750 head and a lease with the White Sands Monument for 30 head on Lucero lake.

In conclusion, a ranch worth many thousands of dollars was taken with a payment of only $63,581 with some of this sum going to lawyers.

James A. Baird, DIZ Livestock manager

James Baird

Alice Gililland Smith

My Dad Dick Gililland Married my mother Ginevera M. Wood Gililland March 30 1911in Alamogordo N. M.

My Dad was working for Oliver Lee, they rode horse back down to cow camp it was about 30 miles south of Alamogordo, next to the Sacrimento Mountains.

My Dads parents Mr & Mrs W. F. Gililland, They were Pappy & Mammie in alamogordo she did a lot of nursing & taking care of the sick.

My Mothers Parents were Mr. & Mrs. Henery H. Wood they lived in the Sanadres mountains he had goats & a good ranch to run them on,it was a pretty place with red hilla & when it got green it was a pretty home, The school I went to was two miles down the caynon from them,all the children out there went to that school.

I was born in Alamogordo at my Grandma Gililllands house July 5th. 1912, Iwas just crawling when my parents moved to the Sanadres, we lived in a tent down by a earth tank that was built for water for the cows as there wasn't to much water, they couldn't drill wells they dug the most of them & had to put a gasoline engine, or we pumped with a burro [illegible] pumpjack it kept some one around to keep the burro moving if it got quite he would stop & stand until you would let him know to keep moving around & around all day.

In a year or two they built a house & some correls, They had to go about 30 or 40 miles to get material, the only way they had to go was in a wagon, it would take about four days to go & get back, they had wagon yards you could stay in & keep your horses & sleep on your camp bed, every one had a camp bed, The cow boys would put their bed on a pack horse & go to round ups, or to find another job out across the country.

We had chickens, horses & some white faced cows, we would catch some of the cows up & milk them for milk, so we did not go hungry but we did not have all this good food to eat, I was a pretty good sour dough bread maker as we had to make our bread on a wood stove & it was hot in the summer time, we didn't have any trees for a shade there wasn't enough water & what there was it had to be carried with buckets or a tub.

I lived on this ranch of my dads 19 years, Then Clay came over hunting for some cows that had strayed away from the Diamond A ranch where Clay was working of course I did not think about him [illegible] coming to see me, Any way I kind of took a liking to him I could tell he was a real cowboy. My first date with him was in Alamogordo N. M. I had got to come in to a rodeo on the 4th. of July, he took me to the dance that night & of course to the rodeo, after that I didn't see him he went back to cow camp he always never neglected his job no matter what happened.

Clay & I married May 27th. 1932 he had got a job about four miles from my Dads place working for the I[illegible] , We moved down there in a little one room house we did not have any furniture Clay had his camp bed & I used his tarp for a bed spread, Clay had made him a chair out of 2/4s so he made me one, we had a old table we could sit in our chairs to eat, he worked there all summer, I had my horse (old Toughie) he was really a good cow horse & one to get places on as there wasn't much of any other way to go places, Clay had two horses one for his pack horse to carry his bed & he rode the other one I rode Old Toughie, we went up to my Dads for the winter I had a few cows, Clay helped on the ranch, in March we moved to Hot Springs N. M. I was expecting my baby, We had a hard time getting by as there wasn't any work the town was dead, it was a health resort & there was a lot of sick people there for the bathes, when you got sick bach then you did any thing you heard about to get some relief, or try to help your health.

Our baby was born on the 12 of April it was a boy, we named him after his Grandads which was Richard Kathen Smith, He was the first Grand child on my side & being a boy my Dad was so proud he went up town & told every one he seen then he went to town & got cards & sent out,to different relatives,

Clay went down to Alaman ranch to see Phil Estes & he gave Clay a job for & 28.00 a month & his board, he had to break horses & make a hand on the ranch he worked from day light to dark, there was a little one room house down in Cutter Clay could rent from Mrs. Lions for $4.00 a month so he moved Richard & I down there, he worked all summer & in August My Dad had seen Jimmy Haynes who was formmn for the Hatchet at Threerivers N. M. He told Clay he could fix a old adobey house up that was out at melpie tank for us to live in, he had to put a roof on it, it was a two room house & not to hot in summer & not th bad in the winter, He was getting $30.00 a month there & our house & board, & Richard & I got to stay with him, We had a model T ford strip down we could move around in on the flats it would run enough to get you there. I got Old Toughie over there I could put Richards clothes in a flour sack up in front of my for Richard to ride on & we could go where we wanted to, The Company took Clay up North for a week or two, so I got Old Toughie & headed for My Dads Ranch which was about 50 miles, I had a uncle Jim Gililland who was about 25 miles, we stayed all night with them one night then I went on in to my Dads the next day, Clay came back in about 4 weeks I had came back to my Uncles & stayed until Clay came by, there wasn't any way of hearing from him until he came riding up, We went on down to camp it was hot & dry the water we got came from Melpie Springs it ran in a ditch down to a earth tank that the cows drank out of, as we went down this ditch Clay would pull cows out that was so poor they would get down & couldn't get out, It didn't rain that year so Clay had a lot of riding to do, his horses were so poor from the lack of feed they would give out & Clay would have to walk home maby he could lead them & get them in.

The Company decided to move us over to Turner Lake which was about 2 miles south of melpie tank, The well water was so salty the horses could not drink it, they had to have better water than that to be able to be rode & worked on, so they had to be taken over to a well that belonged to Tom McDonald, which was about 2miles, Sam Raley was working for our Uncle Jim Gililland, pumping water for some cows our uncle had in a pasture about 2miles from our camp, every thing was dry & hot in sand hills, Sam left one morning to go pump before Clay got ready, they always carried a jar of water on their saddle, for drinking water, Sam had left his water & also the gasoline he had to pump with, so Clay put it on his saddle & went where he was pumping, Sam ask Clay when he got there if he had any water he said yes yhere on my saddle, so Sam went & got a jug off Clays saddle it was clear as water, he begin to drink he was so thirsty he didn't even smell the Gas, Sam took a big swallow of that gas & it took his breath, & made him awful sick, Clay dug a whole close by the trough & filled it with water, Sam got in it & wollowed he was so sick Clay thought he was going to die there wasn't any way to go to a Dr. he would of died before he could go horse back besides he was so sick he couldn't ride horse back. He lived over it,

I had to go some place to wash so Sam & Clay cranked the old model T up & took me to melpie tank,the water was some better & not quite as salty, We had to go in the car as I had to take my wash board & tubs, as we came back by Black Lake there was a good road going around the sand hills, But Clay said Bet I can go over that sand hill, He got right on top & the car stopped it had a bolt out of the part thet held the engine down & it couldn't pull the sand, so Clay & Sam got out & pushed they had to push it all the way to the bottom of the hill which was pretty far in the hot sun, Sam said a good road around that sand hill but no Clay had to try & go over the top, every time Sam would see a sand hill he would say bet I can go over that sand hill, It was a tough way to live but we were happy & had memories we never forgot.

In July the Company took Clay up North again & left Richard there at camp, he told the Boss which was Mack Brazel, that he had to go move Richard & I to town, We moved to Tularosa July 4th. 1934. We got a bed room, front room & kitchen from Mrs. Frisco Richard & I lived there until August my Uncle John Wood wife was expecting they wanted me to move in with them & help when the baby came, so I did I didn't see any of Clay as the only way he had to come see us was horse back & he worked late & started by day light.

My Dad Dick Gililland seen the banker Mr. R. D. Champion & he told my Dad he was taking Fred Bradfords Ranches over & my Dad could have the morgage on them if he & the Boys wanted, There was My Dad, Sam, Roy, & Clay, so my Dad went up to the camp where Clay was & told him about the proposition he had, Clay quit & came down in the model T & got Pichard & I & started getting ready to take the Ranches & goats over.

Dixie & Roy had just got married & Sam was single, So we took the goats over & counted them out the 24th. of November 1934, Clay took the heard & took them to camp, Roy took Richard & I over to the camp, that was called Sweet water the next Day, Clay hearded the goats & I tended to the baby & cooked. It was rough & rocky at our place we did not have any one coming to visit with us, & I did not go any place except on my horse, We did not get bored we did not know what that was.

We were happy as long as every one was well, which we had very little sickness.

Every thing we had was tied up in a morgage to the Bank, When the mohair was sold it would take all we got out of it to pay the bank, store, & hardwear off.

With all the hard work & being tied down to heard goats, Because we could not afford to hire a hurder.

They paid the ranches off & each one, My Dad Dick Gililland, Clay Smith, Roy Tucker & Sam Gililland.each one got their Ranch, Dad got his home place, Clay got Sweetwater, Roy got Grape vine, & Sam the LW.then we had to build up enough so we could get the Bank & Mr Champion in the clear,In 1939 we got ahead enough we could buy a new pickup & hire a heardor.

In 1941 the govermnent wanted it for Three years or the duration of the war.

We had to sell all our goats , because there wasn't any ranches left to lease & we did not have money to go buy a ranch to put our stock on, We didn't even have a place to live, We moved in Tularosa & rented houses, until the goverment finally paid$2000.00 & we bought us a house, & it took all the money the Goverment paid. Clay worked at what he could find to work at, He drove the mail from Tularosa to San Frateria, then he was water boss for the city of Tularosa, He was lucky he could do most any thing & if he couldn't he didn't let any one know he just did what he could find to do, He went to work for Mr Madison as a carpenter, in those days you may be a carpenter but if there was cement to pour or what wver you did what ever ther was to do.

May 2 1947 another daughter was born & Clay could not find work so he bought a Dodge truck & decided to go to Morenci Arizona & see if there was work, He did get a job working on the tracks, so he called me & said for me to take a load of our things out to my Dads place,& I did,Then in September we all moved to Morenci.

Clay traded the place in Tularosa for this place in Alamogordo at the time it was so far out of town it did not have a number later it was 905 Caynon Road, It had a big orchard on it until the Base came in & got all the water & all the trees died, The house was in pretty bad shape it is a adobe walls, & the cesspool had caved in, Clay wasn't making enough to keep this place up & live on & the Government was not paying any thing, I guess they thought they would let us have it back to, In 1950 the Goverment leased the Ranches for 20 years , Clay & I got $ 400.00 every three Months, then we had to pay incom tax on that we could buy a new car & make the payments every three momths then we would have to pay the Taxes on it any way we could . The base opened up about thet time & they begin to hire, every one worked out there I think all the fire department was Ranchers from the Sanadres Mountains.

Clay got his 20 years in out there & retired in 1970, We also got or the leases was up on the Ranches, Clay & I could of mooved back out there & started up again but they would not let usgo out there. We all the ranchers got a lawyer &went to court to try & get pay for our Ranches, We had to hire Mr Smith from Clivis N. M. to go out & appraise the places, that cost us $ 800.00 & when we went to court Clay was sick & our Lawyer or Appraisor did not do any thing for us, Clay passed away in May 1977 & the goverment finally paid me the $64.00 they owed me, it has been a long

Hard fight, We could of had a good living & one we enjoyed, Clay was a real rancher, If only the Goverment would of paid us enough to of bought us another ranch we would not of had all the hard chips we had, We had got to the top with the one we had to where we could have it a little easy & enjoy our place up on Salinas Peak where we did not have to have all this electricy, Gas, Telephones, & pay for our water, We had good spring water piped in the house, It all went to waste, It wasn't even kept up so the Deer could get a drink. In fact the whole gange went to waste the State doesn't get any taxes, the grass & view we had down toward the white sands & Tularosa Basen has been wasted, Now the poor families has to go on wealfare when use to the ranchers always hired or at least gave them room & boerd & they stayed as long as they wanted.

The Ranchers would not of said any thing if the Goverment would of paid us enough to get us another ranch.

Alice Smith

Alice Smith
Box 835 Alamogordo
New Mexico
88310

907 Higuera
Tularosa, N.M. 88352
May 23, 1983

To Whom it may concern,

I am at this time 91½ years of age. At the time our ranch was taken away from us I was in my 50's, too late almost to start a new life, especially since ranching was all we knew or wanted to do. We moved to the ranch within the Guided Missile Range in 1902.

We first heard of the plan for the U.S. Army to take our place in the fall of 1941. It was rumored that the Army was to take over the area from Ft. Bliss to Albuquerque, N.M.

In 1941 an appraisor for the Army Engineers, Mr. W.L. Salvage, came to our ranch to list the improvements. He stayed over-night and put in about three-fourths of one day making his appraisal. Part of the time he traveled by pick-up, (ours) and the remainder on horseback, mostly along roads. He inspected only about 5 or 6 miles of the 28 miles of the fence on our place. We DID NOT see the inventory or Mr. Salvage didn't give us a copy either. Right after this we began to receive notices that we should talk to a Mr. H.L. Olson of the Army Engineers_ we received notice that we would have to move. The 1st. of December 1941 we had to sell all of our goats(2000 head) since we had no place to put them. The next written notice we received to get off our ranch by Feburary 15, 1942. We started gathering our cattle for this purpose. We got them off by March 1, 1942 by moving them to the Spencer place at Three Rivers, N.M. We finaly found a house to rent in Tularosa, N.M.

and we moved our family there.

From October of 1941 and March of 1942 my husband, Dick Gililland went over a large part of N.M. looking for another ranch. We couldn't make any definate arrangements because we didn't as yet know what the Army would pay for our ranch in the Missile Range.

In 1942 a lease contract was offered us by the Army Engineers. It contained an inventory of all our property, some of which was not being taken over by the Army. The lease was to run 3 years with the right for the Army to re-new it from year to year. There was about 7 sections of our land where our main ranch house was outside the part which the Army wanted. We would not sign the lease until the inventory was corrected by taking off the improvements on these 7 sections.

For three years the rent paid us was between $4200 and $4500. Then when the lease was extended the rent was $1400 per year until June 30, 1948. This was for 43 sections of land with all improvements which we could not easily move.

In October 1941 we were constantly harrised by the Army Engineers to get off our ranch immediately. They gave us NO consideration for the fact that we couldn't find another ranch nor house for our family right NOW. As said before we had to sell our goats and move our cattle to a temporary range. We sold the goats at forced price sale and had to pay 50¢ per head for grazing privilliges. I kept 175 head of cattle on this range until we moved them back to the 7 sections of range which we still held on the west side of the Bombing Range. There were too many cattle for the maximum carrying capacity. Before the end of 1942 we received notice that other cattle were grazing on our ranch within the Bombing Range. In April 1944 our ranch land was fully stocked with other peoples cattle. Our fences were all down and some cases the fence posts were even gone. We re-built our fences and let our cattle graze on both the home place outside the Bombing Range and within the Bombing Range.

Around August 1945 the Ordenance Department took our home place into the Guided Missile Range on a co-use basis that permitted us to continue using it.

In 1947 they permitted us to go back on the 43 sections in the old Bombing Range and restore our improvements, thinking we would have a co-use agreement that would let us use the range again as a cattle ranch. There was much of our equipment missing or distroyed. We worked for 2 years getting the ranch back in condition for livestock use.

A new lease was agreede to in 1949. We were paid $350 damage to our property.

When the first lease expired in 1943 it was prpposed to put all of the Guided Missile Range on a co-use basis, but it was rejected in March 1949 because the Army wouldn't agree for the ranchers to spend more than 2 days a week within the Range-- A person can't care for cattle just 2 days a week. Then the Army demanded exclusive use of the entire erea.

We believed we had no choise in the matter so we signed the lease giving the Army exclusive use of all our ranch in May 1950. The rent was retroactive to July 1, 1948. We had not received any r rent for our ranch from July 1948 up until we signed the lease agreement in May 1950, but they used our range anyway.

In June 1951 we were told to move everyone and everything off our home place by Major Wentz of the White Sands Proving Grounds.

We did this at once. Theh we had no one or no way to protect our property or keep out the tresspassing cattle.

In 1952 Mr. Albert Burch, a Holloman Air Force Base employee TOLD us to move all our cattle off the Guided Missile Range.

In 1953 the rent the Army was to pay us was stopped and has not been paid since. This same year a Mr. Cobb of the Army Engineers informed us that we would have to see the Commanding Gerenal of White Sands Proving Grounds . We talked to Col. Thomas the Executive Office; he threatened to have my husband jailed if we didn't clear our cattle off our ranch.

So you see we were harrised, ordered, commanded, and told very unkindly sometimes what we HAD to do or else.

We lived through this; changing our life-style and occupations to be able to live and finish raising and educating our children we still had at home. We had to have jobs as it takes money which a after all this we had very little of to send children to school, feed and clothe them and keep a roof over our heads. We couldn't use our ranch as collateral to purchase another ranch since the Government took it.

I really feel that my husband, Mr. Dick Gililland was taken to a much earlier grave because of the stress and worry all this through the years caused him. He was a rancher, a good one; it was his life and it was taken from him.

I am noe living back and forth between my children because of my age I cannot feel that I can live alone.

Respectfully,

Ginevra Gililland

Ginevra Gililland

STATE OF NEW MEXICO, OTERO COUNTY

I was born Dixie Gililland in June of 1917, in the San Andres Mountains. (Now within the White Sands Missile Range.)

I married Roy Tucker Sr. on September 27, 1934. In November of 1934 we went into partnership with my father Dick Gililland, my brother Sam Gililland, and my brother-in-law Clay Smith, to purchase more land. In March of 1938, when the places were paid for we divided them into individual ranches. Roy and I got a nice little ranch on the west side of Salinas Peak. It had 478.02 acres of Patented land and 798.82 acres of State leaseland Our place was located in Socorro County but was later taken into Sierra County. We had a grazing permit for 25 cows, 11 horses and 375 goats. There was pinon, cedar and other kinds of browse, lots of things for stock to eat. It was a ranchers paradise. No electric or water bills to pay. Anybody could go out and get a load o f wood in thirty minutes. In October of 1941, an appraiser came out ~~and~~ looked all the ranches over and made a list of our improvements. Nothing was explained at this time. Then the first contract was drawn up and we were told that at the termination all our improvements would be put back the way they were when we left. The first letter from the War Department was a notice to vacate, dated October 16, 1941 and the last was a letter from our lawyer, Clarence hinkle, stating "We enclose a treasury check to you which represents the 7th year rental on your lands in White Sands Missile Range.", dated October 1976. That first contract made with the War Department was not kept in any way. In 1950 they made another contract with us, paying us $1600.00 per year or 427.50 each quarter. That contract ended in 1970 when another contract was enforced. They offered us a lease of $700.00 at this time. We decided to fight. After running here and there to meetings , in August of 1972 we were offered $8505.00. After several years we finally landed in court. After paying an appraiser $800.00, we were paid 12,000.00 for our improvements. Our appraiser Armand Smith valued our patented land between $38,000.00 and $41,000.00. We were awarded $18,000.00 by the court. The government settled on the improvements first then proceeded to value the places as unimproved land for the comdemnation proceedings.

At the original taking in 1941 the War Department told us that they would turn the ranches back as soon as the war was over. They said "Just leave all of your stuff here. It won't be bothered."

In December 1941, we sold our goats because there wasn't any place to take them. We found pasture for our cows at Three Rivers, New Mexico. Our range at Three Rivers joined the Missile Range on the East side and some of our mares got out on the range. Floyd Adams, the head range rider, and his men gathered the mares and shut them up in a pen. He sent us word they were there. Howard Wood and our son G. L. Tucker went to see about them. Part of them had starved to death and the rest were in bad shape from starving. Howard tried to get permission to drive them straight across the range to our ranch. Floyd Adams refused them the permission and made them go to T or C and hire trucks and take them around. The trucks cost us $40.00 a piece. Needless to say we didn't get any colts from those mares that year. That Bombing Range was a paradice for people like Floyd Adams. He gave us more headaches than all the rest of the army put together. Although we weren't allowed on the range, the Army recovery crews crossed our ranch to get onto the range. If they used a gate they left it open but most often they simply used their trucks to push through the fence. These holes and open gates caused many of our stock to wander out on to the range. Then Floyd Adams would get busy again. One time a bull got on the range and when Roy and G. L. went to get him the guard at the gate told them they would have to be escorted. The range riders couldn't get over here so they sent an M.P. form the base. Roy was out there trailing the bull on horseback. The M.P. didn't think he should get out of his sight. Because of the brush and ditches you just can't take a pickup where a horse can go.

At one point were not being paid anything for our place and couldn't go out there to live either. We had to buy a house in town to live in. Roy had to go to work at the base to pay for it and make a living.

The way of the ranchers out there is to leave your doors unlocked (in fact few if any even had locks on their doors). We just didn't need any. If a person rode by and there wasn't anybody home, the person would come in and cook a meal and clean up the dishes, even stay all night if necessary then leave a note and be on their way. Nothing was ever carried off. But this changed with the army moving in. Everything loose or movable was carried off. There was even one United States Citizen working at the Tularosa Post Office in Tularosa, who put his picture in the Alamogordo Daily News with all kinds of guns and antiques with a story about "finding" them on the Missile Range. Those things belonged to someone and had been left in the Governments Care. The government employees and military personal can get a hunters pass and go on to the range any time, but not the ranchers. The last time we got to go out there was in 1975. We contacted one of the officials at the base and got permission to go out and was instructed to put $97.00 in an envelope and mail it to the Secretary of the interior. We took up a collection at the gate. I wrote the check for the amount and mailed it. This was supposed to pay for a guide, which we could have done without, and the car he was driving. The guide would have ridden with some of us. Besides he didn't get paid any extra anyway.

Roy Tucker inherited some mining claims. He received $35.00 a year until he passed away in 1975. The checks stopped after his death. Mrs. George Shipley, a lawyer [redacted], was handling the correspondence. I do not know what happened to them. I just never got paid anymore.

Dixie Tucker
Box 37
Tularosa New Mex
88352

We, Loyd and Louise Crockett, were 49 and 40 years of age when we had to pull up stakes and leave our ranch to the Bombing Range in 1952. Now we are 80 and 71 years of age. The Army had told us we would have to stay off of all but a small part of it which at that time was not on the range. This was in 1950 and by 1952 we had acquired a place in Colo. to move our stock to as we could not make a living on the small part that was left. But a short time later the Government took that part and all the way to the railroad track west of our ranch, for co-use.

The government sent a representative out to the ranch to talk to us and explain all the details and promises about co-leasing our land for the bombing range use. He indicated that we had just as well agree as they were going to use that land for their purposes and promised us that any damage done to any improvements would be replaced. Also our ranch would be returned to us in good shape at the end of the war. They drew up papers to this effect.

When we could no longer stay on the ranch, we sold our cattle and shipped our sheep by train to Del Norte, Colo. where we had started in to buy a ranch. A good many of the sheep were sick with shipping fever when they arrived at Del Norte. We took around 1500 sheep there and lost around 300 after working with them trying to save them. We had a $1200 Vet. and medicine bill. The remaining sheep had a bad time getting acclimated and we lost more.

The moving was a nightmare--I don't know how many trips we had to make moving around 350 miles. We had all kinds of trouble--break downs, flats etc.--it was very hard on every one and all the stock. The Government offered no expense money or help of any kind for this move. It took a lot of money getting another place--getting a loan--paying interest--besides the moving expense and loss.

It was quite an emotional, physical and mental upset leaving our home, where we had just built a new house and drilled a new well--put down our roots, so to speak, also leaving the country we loved and felt good in to move off to a new kind of country --a new place with torn up houses to work over. New people to get use to and a much different climate. It was not easy.

We had to leave 30 head of horses--most of them registered quarter horses. When we got a chance to go back for them, they couldn't be found. The Livestock Inspector found that some were taken through the Auction in El Paso by the Range Rider for the Army--Lloyd Adams--who was suppose to be in that range to keep people off the bombing range. We also had to leave some of the cows--about 15 head of them--so we gave them to our two daughters.

We had 11 sheep proof pastures. Fenced with net wire and four barb wires at the top--the outside fences with apron wire on the bottom and big rocks on that to keep the coyotes out. We all--including the kids, worked hard in the hot summer time at this. This included 30 sections. We had 3 wells of which the Army capped 2--or pulled the succer rods so we couldnt use them. We had the one well at the new house to use. There was two springs on the ranch also.

We were sheep ranchers and the year of 1952, that we moved off, we sold $15,000 worth of wool and lambs. That is about $10,000 more than the $5354.00 the army paid us a year. Our carrying capacity or permit was for 1500 head of sheep or goats or 300 head of cattle.

Things were starting to look good for us when we had to move and start over. Our living conditions were getting very good as we had paid for the ranch--had 1500 sheep--some cows and registered quarter horses. We had just gotten through fencing the place and cutting it into 11 pastures--built a cender block house--drilled a good well at the house--put up a good big storage tank and troughs with water piped to them.

After buying a place in Colo., moving, with sick and dying sheep, different weather conditions, living conditions etc. it was very hard to make the payments on the place, to manage to get along for several years. Of course we couldn't sell our ranch in New Mexico as the Government had it, but we somehow managed to keep the payments up on the State lease. Last September the State took that away from us. The Army had it leased. Up until then we kept trying to hang on in the hope that we would get our ranch back as the Government had promised us. That was the agreement the which we had with the Government as they made 10 year leases--but they could turn it back to us at any time they saw fit. They kept us hanging on and hoping. Since we thought we would get it back in the near future we fenced another pasture and apron wired and rocker more fence after the first agreement with the Army.

The Government certainly took our legacy to our family and our general way of life was destroyed leaving our children robbed of their heritage.

Our lawyers from the Hinkle Law Offices in Roswell who were hired by most of the ranchers received 20% of what they could get us in payment from the Government for improvements torn down--B L M-etc. Our big payment was$53,000 and several small payments of which the lawyers got 20%. Our travel expense amounted to quite a lot, as we had meetings at Las Cruces, Alamogordo, White Sands, also phone calls, correspondence,etc.

We've been ordered off our ranch, spied on by the range rider with benoculars and generally not treated with due respect. But the government personnel can tear down our fences, barns, houses, bunk houses, windmills and build roads all over the ranch--ruin it in general.

The Government has ignored this problem of ours --throwing us into court cases and expenses we didn't need . Now it is time they do something about this for all the many ranchers involved for 41 years.

The ranchers let the Lawyers deal with the offers made by the Government, though in many cases, we were forced to accept the offer, which was not figured on the carrying capacity of our ranches, but on what the Government decided on at the time.

It sure did upset our plans and future to relocate. Look at the increase in prices on sheep and cattle over the years. That $15,000 we sold in 1952 would be increased to three or four times that amount now. A couple of years ago when sheep were so high--bringing good prices all over the country--it would have amounted to a lot more than that. The ranchers through the San Andra Mountains, and all others, have been put down terribly and the Army didn't really need all that good ranch country. It hurt the State of New Mexico very much, as well as the ranches and ranchers --and the stock business for New Mexico.

The first payments were made per annum starting July 1, 1945 to June 30, 1948 of $1030. Then we acquired 9,896.67 acres of land from Frank Crockett and Walter J. Harris. This was included in the Bombing Range. We would never have bought it if we had thought we would never get the ranch back as promised. After 1950 our payments were 1538.00 paid quarterly until 1970. Since then we have received various different amounts. I find that we received $1587. 50 in July 1978 and 1979--$1270 in 1974. $1595 for vacating while fireing per annum for a while. The Army leased the State lease land on a yearly basis from 1980 to to 1982 for $3200--then the State lease was taken away from us and they paid the over time of $686.00. All of this helped but it don't near compensate for all it put us through or what we could have made on our ranches if we could have stayed on them.

Loyd and Louise Crockett
Dunlap Rt.
Fort Sumner, New Mexico. 88119

Susie T. McNatt
Box 356
High Rolls, N.M.

Dear Bob,

In answer to your letter of May 13; we are glad to send you this history and hope that it will help.

C.C. McNatt bought the property in the early 1900's. In the summer of 1928, O.D. (Douglas) McNatt, my husband, and I,with our oldest son,then five months old, moved to the ranch to live. We lived there until the government put us off the land in 1942. Doug was 38 years old; I was 32.

Some of that time Mr. and Mrs. C.C. McNatt,Doug's parents, also lived there on the ranch. We had two separate houses. At the time the Government put us off the ranch the older McNatts had moved to Alamogordo.

In July of 1941, two men came to the ranch. One was Bill Savage; I can't recall the other's name. They wanted to borrow saddle horses to ride over the range. They told my husband they were from the Taylor Grazing Dept. Doug saddled horses for them and went with them to show them what our allotment consisted of. When they came in I had lunch ready, and ask them to share it with us and they did. This happened twice that summer.

We had applied for a loan from the Federal Land Bank,to pay the older McNatt's off, so we would own the whole ranch.

Later that summer the appraiser from the bank came to look over the the place. My husband went with him to see the range, then they went to the Taylor Grazing office, where a Mr. Rhl ~~[illegible]~~ was in charge. There and then they were told that the Government was taking over the PRIVATE AND LEASED LAND!

Bill Savage told us the Government would buy our ranches at a good price. We went to California and Arizona to try and find a ranch to buy. But not knowing what or when they would pay us we couldn't seriously consider anything.

In November, we sold what calves we would normally sell, but kept our cows and horses. We raised horses as well as cattle.

In January, we were told we would have to leave the ranch and that they would pay us a lease for it and would return the land to us when the war was over. By that time the price of cattle had dropped and there wasn't much market for horses. We sold the cattle and some of the horses, at quite a loss.

A United States Deputy Marshal came to the ranch and told us we had to be off our land by the last of

Feb. 1942. We rented a place that had some pasture so we could keep a milk cow and a few saddle horses, and moved on it in Feb. 1942

We didn't like having to leave. The ranch was the only home our son's had ever known. But our country was at war and we all had to make sacrafices and that was part of ours.

We bought a dairy in Alamogordo; then the O.P.A. stepped in and we lost money on that.

The first lease papers we had signed on the ranch was some time in the summer of 1942..It was for less than a thousand dollars a year.. not enough to pay rent for the two families. I can't remember when we received our first check, but it was long after we had signed the lease, I know.

When the war was over we thought we would get the ranch back, so we sold the dairy at another sacrafice. When we found we couldn't go back to the ranch my husband tried to get a job at the Air Force Base. But it was a long time before he did. A Mr. J.T. Foley heard he wanted a job and he felt that any of the ranchers who wanted jobs there should have them. Mr. Foley hired my husband in 1949. He worked there for 13 years. Everytime a vetern wanted his job he got it. Doug got enough of that and cleared the base in August 1961.

When we left the ranch we had three sons. They were fourteen, eleven, and nine years of age. At an age when boys should be in the country, helping with chores and ranch work instead of in town where they had too few chores and not much recreation other then school and church.

We were not allowed to use our ranch, although our neighbors, just off of the Government land, tore down our fences and used our range and fields,(we raised hay and corn), for their own cows, as well as cows they took to pasture for the farmers who didn't have forest permits on the foothills. We had pastured these cows before the Government put us off our ranch.

We were fenced out for years and couldn't even see the place. We did get on it,without a permit, in the summer of 1976. It was a heartbreaking sight. Our houses and other buildings, as well as the corrals and other fences, had been torn down and taken away. Our windmill had been torn down and dragged several hundred feet and torn to pieces. What couldn't be torn down and taken away was torn up with bulldozers. All our farm equiptment had been stolen and sold for scrap iron soon after we left the ranch. All we got was our housekeeping furniture, personal items and what money we could get from the sale of the cows and horses.

I have no idea how many meetings we have attended, how many letters have been written or how many hundreds of dollars have been spent in the years past, but it has been a great many of all of these. I cannot tell of the pain and turmoil and anger and bitterness this whole thing has caused my family.

Mr. C.C. McNatt died of a stroke in December of 1950, at the age of 80; his wife in July of 1953. She was 76. Their lives would have been so much easier if we had kept the ranch.

My husband was ill the last six years of his life. He grew more and more bitter over the way the Government had treated us, as time passed, and his health grew worse. He died April 19,1980, a broken and bitter person.

His brothers and sisters are all dead now. I am the~~y~~ only one left, except for the grandchildren of Mr. and Mrs. C.O. McNatt, the original owners of the ranch.

Susie J. McNatt
P.O. Box 356
High Rolls, New Mex.
88325

My name is Roy Tucker Jr. and I was born in Tularosa, New Mexico. My parents, Roy Tucker Sr. and Dixie Gililland Tucker, had a ranch on the west slope of Salinas Peak in the San Andres mountains, now part of the White Sands Missle Range.

In 1942 the United States Government came and told my folks that they would have to move as the United States needed the land for a bombing range to train bombers for the war. My folks picked up and moved off temporarily because they felt it was something that needed to be done for the good of the country. What they didn't know was that they would never get it back.

My folks ran cattle, goats, and horses on their ranch. When they had to leave the ranch they sold the goats. But because all the other ranchers were having to sell their goats they got only one half the price for their goats.

They couldn't find anyplace for the horses so they left them on the ranch. My dad went back in 1943 and branded the colts. The horses stayed on the ranch until 1954 when Mr. Floyd Adams, who was a range rider for WSMR, gathered them and put them in a corral without feed. When Mr. Adams finally notified my dad about the horses they were about starved to death. Mr. Adams wouldn't let my dad drive them across the range so he had to hire a truck to haul them to Three Rivers.

My folks were lucky enough to find pasture for their cattle, whereas most of the ranchers on the range had to sell their cattle. Then in 1953 Mr. T.A. Spencer leased the Quarto Amigos ranch to my dad. At that time there were 120 sections of land on the ranch.

From 1946 until 1958 they ran cattle on the bombing range. In 1958 or 1959 the government refenced the range. The day the government finished the fence Mr. Adams, the range rider, came and told my dad the cattle had to be off the range. My dad told Mr. Adams that if he would give my dad a little time most of the cattle would come off the range to water and he could catch them. Mr. Adams said he couldn't wait and the cattle had to be off right then. My dad got together some hands and started gathering the cattle. Mr. Adams and some of his men came to help. We rode and gathered most of the cattle but everytime we went down the bombing range fence we would find cows that had been roped and injured. One had a broken leg and another had a broken back. We don't know how many more had been hurt that we never discovered.

When we were in condemdation with the United States Government, I talked to our lawyer Mr. Hinkle, who said the range wasn't good for anything but a bombing range. I asked him why and he said that the range was contaminated with bombs that were dropped during the war. I told him I thought it was funny that we ran cattle all over the range after the war. I know a lot of people who work out on the range now and I asked them what restrictions there were on traveling on the range and they said there wasn't any.

The government and game department has had hunts all over the range but we were told that it is too dangerous for us to run cattle on it. I think we were sold out by our own lawyers.

I bought Mr. T.A. Spencer's part of Quartos Amigos. Even a good part of that has been taken by our government, in fact in 1982 the state would not release the state land on the Missle Range so I lost about 112,000 acres of state lease. The reason: It was not an economical piece of land.

Let us turn this around and say tomorrow the U.S. Government told you senators that they need your homes and way of making a living. How many of you could move in 30 days and find another home to start over in and not effect your life style. Most of you would be better off than the ranchers because you have other occupations to fall back on. These people were ranchers. They could not buy another ranch so they had to change occupations.

907 Higuera
Tularosa, N.M. 88352
May 21, 1983

To Whom it may concern,

I will be 69 years old in the month of July 1983.

I am still holding a job, because our Government officials took my 22 section ranch 41 years ago and didn't pay me but about one third as much as my mohair alone had been bringing me, not counting the sale of my goats, sheep, cattle, and mares. I told my father, Dick Gilliland the have ruined me. He said, "Me too".

The Government appraiser, Bill Salvage came to my ranch and showed me where to sign and told me the wanted to use my ranch until the war with Japan was over, so We, The United States, could win over Japan.

We were told to leave everything as they were and the Government ~~ent~~ would let us have everything back WITH our ranches at the end of the war. They said they would pay us for everything that wasn't still there at the end of that war with Japan.

I had some good windmills, good medal water tanks and troughs, net wire, barbed wire fences and carrals, three good goat sheds, a big red tile house plus other houses and dipping vats. My parents had two model Ts Fords, a modelA Ford, three good wagons, real good harness, many ranch tools, wrenches, windmills, differrent sets of house inprovements etc.

The mential stress of having to give everything up and trying to start over again was almost more than I could indure. My wife said she was going to send me to Las Vegas to the asylum.

Since I had to move several hundred head of my goats to another location a snow storm hit and frooze many of them to death. This happened while moving them between Louis McGines ranch and the railroad. We built fires all night trying to keep them warm. The next day I was almost snow blinded. My eyes are still giving me trouble. I also lost some calvws during this time.

I didn't get any moving expenses from the Government thus I couldn't re-locate; the Government wouldn't help me finacially replace my ranch which I had worked for years and earned myself, I inherited nothing.

My beloved mother is still living. She is 90½ years old. The move and loss was very hard on she and my father. They worked so hard to make a home for their children.

Nanny goats which belonged to me and Mr. Shelton had to be left in a net wire pasture around my north windmill were lost. Mr. Shelton lived at Corona, N.M.

I wsa not told how much lease money I would receive, I was just told to GO.

Just before I left there I had over 1400 good angora goats, several cows, brood mares, sheep, registered herford bull, registered thorabred stallion, a good ram, and some good billy goats.

Had I been able to keep my ranch I by now would have been a rich rancher. Instead I am trying to hold a job, doing my best to send my only daughter I have left to college. My other two daughters are dead. I have been told that my age will be the cause of my being replaced on this job soon; laid off because Uncle Sam won't let me work after I reach 70 years old. This seems so unfair. I never fail to be on the job at all times when I am supposed to be. The 20 year old man they might replace me with may have other ideas like so many of the young folks do today, like some of them that worked for the city of Alamogordo where I worked for some time.

Our living conditions before we had to leave our ranch were real good. All we owed were a few more payments on a new Chevy pickup and the next mohair check would have payed that off plus finish the big new block home we were having built.

I had some good dogs I had trained. They took care of the goats and bring them all home in the evenning. This left me so I could help build the house.

We were on the end of a long school bus route with three or four of our childrenabout old enough for school. We had planned to buy a school bus with our mohair check and run the route to Carrizozo and wind up with a pension from that later, but Uncle Sam says GO.

We were forced to leave with no cash to buy another home. We fimely made a deal to buy a place and pay later_ faced a forclosure and this kept me worried all the time. I wasn't used to oweing for anything. The house was so cold that we almost froze in the winter. I almost died with a bad case of flu. My parents happened by to see us and my Dear mother saved me with old home remidies.

Besides the animals I mentioned earlier I also had 3 horses and a mule. I could beat many men roping goats and hogtieing with no saddle or bridle, just me and my catch ropp. The mule and one of the horses had to be left behind and died I was not allowed to return to care for them.

The lease agreement said the ranched could be returned at any time. The Government kept telling us we would get the ranches back. That's why we ~~kept-d~~ kept hanging on as we didn't think our Government would lie to us. They wouldn't let us go back and they wouldn't continue even making those little lease payments on our 22 section home as the lease agreement said they would.

The Government had stolen my legacy to my family. My wife divorced me after my basic way of life had been destroyed. My children had been robbed of their heritage and education. I lost two of my daughters in death. Things would have been so much different had I been able to continue ranching which was what I knew best. My daughters would now be fine beautiful young ladies now but instead they are dead. My Dad, Dick Gilliland grieved himself to death like a quail shut up from its open range.

The lawyers consumed many dollars from we ranchers and mining people. The Government broke me so badly I couldn't help much financially to suport those lawyers. I spent much time with my Dad spending his time and money. We went to John Prathers to try to lease some grazing land for some of our cattle. Dad told Mr. Prather what a dirty deal the Government gave us and he really got mad at the Government. He wouldn't let them have his ranch. I was in Campbell Hall, N.Y.later. I was transporting Mobile Homes at the time. Ed Ferris asked me where I was from. I said N.M. Ed asked if I knew John Prather in N.M.

When we were finely able to go on a tour and circle the ranches where we were raised we were escorted by armed personal and treated like spies. Our every action was and is watched. We went up Rhodes Canyon the north and east by the ranch where my 90 year old mother was raised. Looked like everything had been stripped and hauled off by Government Personal. Then we went nine miles north to the ranch house where my parents raised Alice,Me, Dixie, Lola, Pete, and Jess (in order). Everything there had been vandalized and tornen down and hauled off by Government personal, including household furniture, old records, wood stoves, tools, three wagons, an extra good set of harness, 2 model T Fords, a model A ford, and many other things too numerious to mention. One thing I was glad to see still there was the round carrell which my parents built in 1914.

The Government has ignoried our problem for the last 41 years. There has been lawyers hired, and had court cases but the Government doesn't seem to care if we live or starve.

The Government made some very unfair offers which were not based on a formal for carrying capasity but just what they decided at the time. In many cases ranchers were forced to accept those unfair offers which were not sufficient to even near replace what was taken forcefully from them. Our ranches couldn't be used for collateral since the Government took them then in turn this kept us from buying another ranch if we had found one. Also we had always been given the impression by the Government that at any time we would get our ranches back.

Today my elderly mother is worrying and fretting, looking in books for some information, wishing she could write a letter like this to send to you about her grief and hardships since our homes were taken.

Respectfully,
Sam W. Gililland
Sam W. Gililland

P.S. on page 6

The Government or officials of Government lied when they said they paid us as fair as they ever did others they took homes and ranches from. They lacked an enormous amount.

May 17, 1983

TO WHOM IT MAY CONCERN:

History of Greer Ranch and Family -
San Andreas Mountain - White Sand Missile Range

G. B. Greer was the original owner and founder of the Greer ranch. G. B. Greer came to the Territory of New Mexico with his family from the Red River country in Texas where he was also a rancher. He first settled in the White Mountains on the Bonito. A number of years later he went into the San Adreas range and settled into what became the Greer ranch. You will have to realize at that time from the White Mountains to the San Andreas was a very long distance, especially when the only mode of travel was by horse and wagon. He took his family and literally craved out of a wilderness an excellent ranch. The unique and priceless commodity in New Mexico, was the water available - there was a natural spring where the homes were built - that spring was cleaned out and pipe layed and a huge cement reservoir was built with concrete watering troughs and pipes layed for irrigation for the orchards and gardens. Also, there is a natural spring on top of Sheep Mountain which was also cleaned out and another huge reservoir dam built to hold the water. Another spring was below the house for use of the families. The range was such that we had excellent grazing land for cattle and the mountain vegetation and brush for Angora's. G. B. Greer was a man of far vision he had a ranch with two separate incomes. Sheep Mountain was used for summer grazing only and to appreciate this there is only one way up the mountain and one way down - but the stock was moved there as the grass was lush and stirrup high - he and his sons had also built a cabin up on top - with stove, etc., and all of that had to be brought up by pack horse. There were corrals, barns, sheds, an enormous holding pen for the ewes when they had their kids and equally huge shed for protecting the Angora's fromthe weather, he had built up a herd of 1200 with prize Billies which were bought from a breeder in San Angelo, Texas. Through the years he had also built up the cattle to herefords, with bulls from a breeder in Roswell. There was also a hugh shearing shed capable of handling 8 shearers plus the area to sack the wool. The wool was the finest even at that time in New Mexico and was contracted from year to year with the same people wanting the wool. The price was good even then - check on what top grade angora wool is today. We had 100 head of fine hereford cattle and six working quarter horses - check to see what those are going for in todays market.

In addition
two wells
were
drilled
for water
access
for the
cattle

After World War I - G. B. turned the operation of the ranch over to his two sons Lester Greer and Ira Greer. Lester married a ranchers daughter from the Bonito and Ira Greer married Allie Johnson, who's mother and father also were ranchers and came to New Mexico when it was a territory, Pete and Laura Johnson - she (Laura) had the distinction haveing the first white child born in the Territory of New Mexico at Las Crusas - they later moved into Lincoln County. My point in all this is the Greer's, Johnson's, my family the Claunch's and the Adam's were all ranch people that was their life.

After G. B. Greer died, his widow Julia Greer sold the ranch to her two sons Lester and Ira Greer - equal partnership. The two sons and their families lived worked the ranch and continued to build up the land, and the livestock. During the depression there was no money so Ira Greer went to Carrizozo and took a job as a Constable - Les remained on the ranch and in the summer Allie Greer (Ira's wife) and their two sons Fred and Jack lived and helped Lester and his son Randall. Ira stayed and worked and furnished the money for taxes, improvements and the necessities required for the ranch. After Fred graduated from High School (he was offered two scholarships for college one in New Mexico and one at the University of Arizona in Flagstaff. However, he loved the ranch and that is where he wanted to be - so his mother then moved into Carrizozo with Ira and Fred took over his dad's part of the work and running the ranch. In 1939 Fred and I were married and lived on the ranch. I will always remember the day the first Government man arrived at the ranch - I was there alone as Fred and Les were out checking the camps. I heard the car long before it came and this man got out came up to the house and said he was from the Government and showed me an identification badge and wanted to know if this was the Greer ranch, I said yes it was. He wanted to talk to the owners I told him that Les and Fred were out checking the camps - he said well tell me how to get there. I asked him if he could ride a horse (knowing he couldn't) that I would saddle two and we would go look for them. He informed me he wasn't riding any horse - so I said well we can walk then over the mountain to the west and the other one to the east. He asked me then when they would be back and I said not till late in the afternoon but if he would like he could come in the house and wait and I would fix him something to eat. He looked at me and said I don't have time to stay around here and anyone that would live in this godforsken place is crazy. I will be back in two days with some other officials, see that someone is here and with that he left. When Les and Fred returned I told them what had happened they asked me what he wanted and I said I have no idea. He seemed quite disgusted and was very unfriendly but that someone had better be here in the next couple of days. In about two days they were back and informed us this was in February they were from the military and they were going to use our ranch and it was for the defense of the country. We had two weeks to move all our possessions, all of our livestock. Les tried to explain to them you didn't move ewes that were going to have kids in a month or cows that were going to have caves in the Spring. They told us quote " YOU HAVE TWO WEEKS AND IF YOU AREN'T WE WILL BRING IN ARMY TRUCKS AND SOLDIERS AND MOVE YOU TO THE BOUNDRY LINE BELOW HERE YOUR STUFF WILL

TAKEN OUT OF THE TRUCKS AND YOU CAN GET IT FROM THERE THE BEST WAY YOU CAN AND IF YOU DON'T HAVE YOUR STOCK MOVED THEY WILL BE LEFT HERE. And, with that they proceeded to leave. We were all in a state of shock and went to Carrizozo to talk to Ira Greer to know what we were to do. In the meantime other ranchers were being told the same thing. We proceed to start the process of disposing of stock and moving all our possessions which entailed two households of furniture - all types of tools, equipment etc., necessary to operate a ranch. The Angora ranchers in San Angelo were more than happy to take our Angora's ~~and~~ as they knew they were a prize breed - we sold them for practically nothing, we not only lost the kids that were to be born, and culling out the old ewes for sale, as were continually upgrading our herds, plus the loss of the wool which would have been sheared in May. We trucked them to El Paso and quite a number died. Our cattle were sold at a big loss - the horses we eventually pastured with a ranch friend until could sell them which after three months we did (we paid a lease fee while they were being pastured) and also practically gave them away. We had six herd dogs, which are a breed of themselves, try to buy one now! we gave them to rancher friends that knew the value of them and could use them. We were not given any consideration in all of this very traumatic situation much less any compensation. By the time the truckers were paid, the bills paid that had been made ~~the~~ to run the ranch and a note paid off to the bank - there wasn't anything left for a lifetime of 3 generations sacrifice, hard work to build something for future generations. Fred and I moved to Carrizoz - where there were no houses to rent so we stayed with my Uncle for awhile - Les and his family went to the Bonito where Tom Bragg his father-in-law still had his ranch. After Fred helped get things settled for his dad - he enlised in the Navy - his brother Jack was already in the Navy. My mother had moved to Tulsa, so I went to Tulsa and went to work for Williams Brothers Pipeline Company. Fred was injured in the war and was sent to Norman, Oklahoma which was the closest Naval Hospital in the southwestern region. He was there for 6 months - when he was discharged Williams Brothers were very impressed with his capabilities and wanted him to go to work for them - they would train him he spoke fluent Spanish which also helped. I felt it was an opportunity for us but he felt the war would not last much longer and we would be going back to the ranch. I felt then that would never happen as the last time we were allowed on the ranch was during hunting season before Fred left - everything was being destroyed - they sent four officers with us and two enlisted men - we were never left alone - the four officers said we had to clean their deer for them first before we could hunt for ourselves - which we did. I observed the roads that were built - the communications systems and all the money being poured into the land. We went to Tucumcari that is where Fred's mother and father were living. He went to work there and hated every minute of it - while we were there the Government again contacted us and they needed the land for ten more years but they were going to pay us a lease - the lease amounted to about 250 dollars apiece (every 3 months for Ira and Lester. Then they would buy it later if needed - fair price etc., etc., - nothing has been done as we were told. From then on Fred just didn't care much about anything. He died at age 36. My mother was here in Tulsa, and as she and I were the only ones left in my family - my grandparents were gone - my only brother Jack Claunch - he and I were the only grandchildren on either side of the family - he was the last male heir of the Claunch family and could have stayed out of active service because of that but was absolutely of no consideration to him or the family. He was in the Air Force and flew B17's his squadron went on a night time mission and Jack's aircraft was lost - it was never known what happened to it. So I returned to Tulsa, as I knew I always had a job with Williams Brothers and I had two little boys 4 and 5 to raise. They are fine young men and am very proud of them - my son John was a Marine and was in Vietnam - he was awarded two Purple Hearts the last one costing him his right leg.

In 1975 there evidently was some type of agreement made on the grazing leases - none of the Ira Greer heirs were notified - even to Allie Greer - widow of Ira Greer who was still living - in fact she only passed ~~any~~ away in June 1982 at the age of 93. A rancher friend found out about it later and wrote me if we had been notified. I talked to Jack and neither he or Aunt Allie knew anything about it - we wrote the attorneys in Roswell who were suppose to be representing us - they wrote back they had nothing to do with it the Corp of Engineers and the State handled it. I wrote, as did (To C.E.) Jack, no reply - I called the Corp of Engineers in Albuquerque as did Jack - we were told there was no record of any Ira A. Greer and to contact the attorneys in Roswell. This has been going on for 7 years. I wrote to Senator Domenici July of last year and explained some of the circumstances to him about a week later I received a letter with documentation from the Corp of Engineers and a copy of the Lease Agreement - the only name on it was Randall Greer - son of Lester Greer and the heirs of Lester's daughter Molly who died at 26 or 28. Just this past month Jack and I both received bills from the attorney's in Roswell what we owned them for representing us on the grazing lease matter - which was a big laugh - all these years they didn't know anything but now they see some more money maybe - all of a sudden they have found Ira Greer's heirs.
Jack and I would still like to know what happend on the grazing lease. Also, we are still paying taxes on a mining lease the Corp of Engineers say that is impossible but we have the court documents and cancelled checks!

To sum this whole situation up. The losses I have encountered through the years have been no worse and possibly not as bad as many of the other ranchers have suffered. With all that has not been done - and was done to the ranchers - they continued to give to this country through wars even to the Vietnam war. And, to only know how much this country means to all of us is the fact we gave up the land that was our heritage and our childrens and grandchildrens. I don't think most people can understand the love we have for the land and why we don't give up - it is born into us just as a breathe of air. My two sons have never set foot on what should rightly be theirs but they have has much deep love for the land as I do. The most tragic thing in my life and what no amount of money can ever repay - is the loss my two sons have had in what their life could have been and what can never be replaced is the father they lost without ever knowing him.

Evelyn Claunch Greer
Evelyn Claunch Greer
For Heirs of Ira A. Greer

1414 East 52nd Place
Tulsa, Oklahoma

White Sands Missile Range

Statement by Heirs of Bruton Ranch.

General Accounting office

This ranch contains the following:

40,021 acres of Federal Land (62.71) sec.
4,137 acres of State Land (6.41) sec.
450 acres Patented Land (.70) sec.

This ranch is twenty miles east of Rincon, N.M. and lies in T. 16 S R2E and T. 17 S R3E.

John R. Cobb came to the ranch and told us the ranch was needed for the duration of the war and for testing, and we would get it back in as good shape as it was or better. He took many pictures of everything and said that would help them fix the place up when they turned it back.

On August 1, 1945 an agreement was signed for $2,750.00 a year for co-use.

In 1953 Earl Lostetter, appraiser, offered us $81,998.00 for the improvements and said take it or it would be condemned and money put in the bank. This was a very low figure with a 30% depreciation factor.

In 1970 received no more payments on Federal land rental.

On September 3, 1982 the payment of $2,593.75 a year was stopped on state lease land.

It was impossible to keep the cattle for the following reasons.

We sold about 700 cows and calves in 1953. We searched for a ranch; only ones that were found cost much more than we got out of the ranch. We couldn't use the ranch for collateral.

For 41 years the government ignored our problems.

We always used cow unit and the whole ranch when borrowing money from the bank or from the Land Bank.

When we were forced off, they moved to town and had to buy a home for $30,000.00 and pay legal fees, tourt costs, gathering cattle, extra feed bills and were forced to take a low price for cattle and horses and a moving bill. All these costs amounted to $45,000.00 (including home).

Jack Bruton died in 1963, his wife in 1974. He was in poor health and never liked town. We kept paying lease on the school land until 1982; even they said that it might be returned; and it being in the fringe area we thought it would be returned or could be used for co-use.

Rentals and payments over this long 41 years amounted to about $300,000.00 This is only about half the price of a new ranch. Most of the money came as rent and over so many years.

The ranch was inherited by the following (two daughters):

Anna Lee Gaume
1301 Las Cruces St.
Deming, N. M. 88030
PH: 546-8069

Florence Rossiter
1400 Las Cruces St.
Deming, N. M. 88030
PH: 546-8596

There was no income only on state land since 1970, so it made a big investment, have very little value.

All we want is a just payment on a cow unit basis.

We feel badly about the early misrepresentation of the men hired by our government. We pray that this improper justice will be corrected.

Jack and Ella Bruton had no pension or social security and used up nearly all the money before passing on. It was very sad for them.

We, the heirs of the Bruton estate are unsure as to how co-use payments and rent can be considered as part payment for a ranch.

These statements were prepared to the best of our ability.

This Concerns the Cicero Green Ranch which is in the North-west corner of the White Sands Missile Range in Socorro County of New Mexico. It consists of:

2,125.29 acres of Patented Land
4,481.86 acres of State Lease Land
31,255 acres of Federal Lease Land
A total of37 ,[illegible].15 acres or 59.16 sections
with a carrying capacity of 472 animal units year long

My father, Cicero Green and his father, J.F. Green, and the rest of his family bought and moved to this ranch in 1918. It was gradually added onto. The land wasn't fenced at this time except for small pastures at the wells to keep a few cows and the saddle horses in. Cattle ranged back and forth with the rains and feed conditions and weather in general and mixed with neighbors cattle and it took many long hours in the saddle trying to keep up with them. A few even went all the way back to the Sacramento Mountains, at least 90 miles away, from which they had been moved.

My Grandfather and the other members of the family moved away in 1928 selling his cattle. The ranch was left to Cicero Green and all the improvements and expences and the added on land and such were then solely at his expense.

When my father first began recieving information of the land being taken for the Alamogordo Bombing Range in the Autumn of 1941, I was 17 years old, having graduated in May of that year and working on the ranch at everything that I could handle, helping with the branding and working cattle, repairing fences, checking the stock waterings and such things.

When I first heard of this I told my father that according to the Constitution of the U.S. that the Government could not take his land--- -Not enough is taught in school about the Amendments !

As it turned out this was the only year I was to spend at the ranch for since I was about 10 years old I had to move somewhere to go to school 9 months out of each year. I loved the ranch very much -- it had always been my home.

My parents worked very hard and with very little money getting the ranch properly fenced and wells and other improvements made. I was there too and I remember the hard times as well as the good. When the land was taken and all the cattle had to be sold because he could not find pasture or another ranch he could lease, my 80 head of cattle had to be sold too and my saddle horses and his favorite horses which were kept on pasture for awhile had to be given away.

Cicero Green began recieving mail about the taking of this land on October I6 and in November of I94I and Notice to Vacate on Feb. I5, I942. Somehow he got them to extend it to Noon April 27,I942 (even though the U.S. Government didn't get around to signing all of their Court Order Papers until Nov. 29,I943--signed by Wm. D. Byers,clerk) He had to move. This first agreement was to take it only until I945.

The cattle were not in good condition and were calving but they were on the mend. Due to all the moisture the fall before the grass and weeds were really coming fine. Given another month or two they'd have almost been fat. But he had to sell all of them at $ 55 a head because he could not find enough pasture for them and no ranch to lease or buy to take them to. All he kept was my milk cow and her little calf and a few horses. He moved nearly everything except a few pump-engines, pump-jacks,windmills and watering troughs. The engines were the old type and very heavy but would have lasted for years yet.

He did not recieve money or any other kind of help in moving or relocating. He moved to Tularosa,N.M. with the hope of returning to the ranch soon.

I can no longer remember when the last load of cattle were shipped but as far as I know I was the last to get off the North part of the Range before their noon deadline of April 27, I942. Driving our last cow--a milk cow with her new little calf that had never been driven horseback or even been out of the corral before. Mother and Dad had the last Pick-up load of our things and waited for me just across the line which was 6 or 7 miles from home and I made it by I o'clock and they had a lunch ready for me. I still had a few miles more to take the cow and calf to a neighbor who was to keep her and a barn full of our things until we could find a place to live or move them back to the ranch. I cried most most of the way and probably would have all the way except the cow and calf gave me so much trouble trying to go back home.

There is nothing quite like having to give up something you own----land that is all paid for and you've taken care of it the best you know how and the cattle that you can trace back to their great, great grandmother s or maybe farther than that. Also a string of saddle-horses you've known all of their lives.

A few months before the actual move -- a man came to list and make plots and measurements of all the improvements : houses, barns, windmills & pipes, corrals, cisterns even the shade trees as they were to be restored or replaced when the land was returned. I can remember the man makeing all the measurements and drawing the plot of everythings exact placement but after 42 years I can not remember his name. Anyhow now they say all those promises made back then are not worth the paper they are written on. We Believed Them ! Your Own Government would stand by their Promises. It would only be until the War was over. Then you could return to your land.

Soon after we moved off --fences were torn down and stock began grazing our range. The Bureau of Land Management threatened my father with trespass-- even though he had sold all his stock and no longer was allowed on this Bombing Range---
He tried writing letters :

Feb.2I, I944 -- to the Commanding Officer of Alamogordo Air Base asking them to take some action to prevent livestock from grazing his ranch-- as the lease contemplated this rest perie period would be advantageous to the rancher when he might be permitted to resume occupation of his property. (In his case a 20% Increase in carrying capacity which would raise it by about 94 head.)

Mar. 2, I944 a letter was sent to the War Department Division Real Estate Sub-Office in Albuquerque for the attention of Captain Floyd T,Snyder by Robert K. Wood 2nd Lt. Air Corps. Assistant Adjutant.

The answer he recieved Mar. 25,'44 was Action is being taken by higher Authority in the War Department to prevent trespassing of Stock. By Floyd T. Snyder Captain Corps of Engineers, Head , Division Real Estate Sub Office.

Animals still graze this range!

In Nov.7, I947 Cicero Green recieved a letter from the Bureau of Land Management (J.R. Ahl was the District Grazier along with J.R. Painter and E.A. Greenslet during these times) stateing that an agreement between the War and Interior Department --negotiations were under way that would enable the BLM to reinstate your grazing license and permit under certain conditions---Co-Use. Then another letter from Henry K. Shadel Cheif, Real Estate Division in April I948 about Restoration also saying Authorization had been recieved to grant CO-USE -- ect. And that he would recieve further information in the next 30 days. My Father was allowed to view the range with men who said they were checking the improvements in I947 and I948.

Cicero Green died in May I949 of Complications of Asthma caused by stress more than allergies. He was 62 years old. He had never recieved any of the lease money from the ranch in all those years due to a legality over 240 acres of deeded land on which the Department said it needed all the signatures of the J.F. Green Estate (which was my Grandfather). By the time my father learned of this his nieces and nephews were scattered in several states and some in the Service and Overseas. It wasn't until after his death and my Mother was settling his Estate that she was able to get all the needed signatures and at long last began to recieve Lease Money in I950--'5I. Also some restoration money for a house that was burned.

After his death, Mother was allowed to have several miles of boundary fence rebuilt but soon stock were again grazing this range and they still are in I983. This land that is considered too dangerous for People and Animals! A Wasteland -- they would have you to believe! Where family after family made their livelihood without Government help and handouts !

My father and mother had several lawyers through the years ---Allen D. Walker, George A.Shipley, Benson Newell and several others but no record was kept of their expense.

The first Lease Agreement said --To have and to hold the said premises with their appurtenances for the term beginning April 27, I942 and ending June 30, I945. This agreement may at option of the Government, be renewed from year to year commencing July I, I945 upon the payment of $2,743.67 per annum,ect. The Government shall pay to the Grantor for the premises the sum of $ 8,250.00 for the term ending June 30,I945. This Agreement was signed by P.L. Gore, Contracting Officer and approved by H.R. Rodgers, Commissioner of Public Lands.

The annual lease from I950 or'5I was $ 8,420 until the lease ran out June 30, I970.

My Mother, Emma Green, died in June I967 at age 73. After her death an appraisal was made for the Estate and it stated--- Investigations indicates that the Federally owned land situated in the Intregated Holloman Air Force Bombing Range and the White Sands Missile Range has been withdrawn for Military use. Accordingly, the Ranch Operators affected Retain control of the land by permit but are not required to pay grazing fees so long as the land is used for Military Purposes.The Ranch was appraised at $2I4,750, market value in I968. The appraiser figured the estimated sale of livestock to be $3I,06I.00 with 75% calf crop and at 2I cents a pound and the sale of some old cows and bulls.

In May I970 Willis Danley, my husband, and I made an application to the Bureau of Land Management for a grazing lease because the Missile Range lease was to run out June 30,I970 and recieved this answer:

May 27, I970

Receipt is acknowledged of your application dated May 22, I970 to graze livestock on the White Sands Missile Range as of July I, I970.

In the event you do not reach agreement with the Corps of Engineers, Department of the Army prior to July I, I970 for the use of your property, your application will be referred to the District Advisory Board for recommendation.

Your application will be forwarded with the Advisory Boards recommendation to higher Authorities for action, since the federal lands are withdrawn for Military purposes by the Departement of the Army. You will be notified in due time with regard to your application.

Signed

J.W. Young, District Manager

Of course the outcome of this was that they Condemned the Land to insure their continued use by the Government. Then they decided to no longer pay lease on the federal land in your allotment-- which cut the lease money to about $4,000.00

a year. I was advised to take the restoration money that they offered at this time because of how the Military was depreciating the property.

In I980 this ranch was again appraised -- at $260,000. No livestock sales were estimated at this time but in November of 1982, lowest price steer calves were 62 cents per pound. At the lowest figure sale of cattle would have been $20,000. This is considerable more than the $4,000 that they are paying in lease. They offer to buy for the price of $II7,890 for the ranch or their very top offer of about $I40,000. It is also said that since they have paid so much lease and restoration money these 40 years that the ranch land is already been paid for but as you know if you are renting the house you live in , if you pay rent for a hundred years, the house will still belong to the landlord or if you are the one leaseing out the house, his paying you rent doesn't give him the ownership, unless you had previously agreed that his rent money should go in on the price. No such agreements were made on these ranches! I doubt if they would have had a single person to sign had this been the case.

All these years Taxes and State Land Grazing leases have been paid on this ranch. Now we are informed that the State Land is going to be given to the Federal Government and that all you will have left is your Private land, and since that is scattered about on the ranch because that was where your cattle watered at the various wells, and that this land is worth very little. Where is the assurance that you had that as long as you paid your leases as required you still have a right to the State lands whose lease you've held all these years.? How could this possibly be treated as lots in a city or fields to be farmed -- with grazing allotments set at 8 head or maybe I0 or I2 head of stock per section (640 acres) ? Wells can't be grouped together and cattle have to travel miles and miles to water! Nearly all ranches are made up of BLM, State Lease Lands and Deeded Land. You'd have to have millions and millions of dollars and look far and wide to find a very large ranch made up of all deeded land.

My husband and I were unfortunate enough to be in another land take-over on the North edge of the Mc Gregor Range in I957. It wea East of the Railroad and Highway 54 and had a very important resevoir on it, near where we lived, furnishing water to the Railroad and Orogrande --- a very safe place we thought! This was the second ranch for each of us to loose and it had a devistating effect on our lives. We would still be there for we loved it very much and never expected to be moved from there. It was all paid for and we were building up our herd of cattle--- it had a carrying capacity of 460 head. But this time was diffrent. They paid for the land as a ranch unit, although far less than it was worth, also paid for the search in hunting a ranch for relocating and for hauling of personal and household belongings. We weren't able to buy a large enough ranch and had to sell part of the cattle and horses but were able to stay in the cattle business.

Each trip that we've been over the Range has had to be with an armed guard or Government appraiser and you are only allowed to go to your own property, your Uncles or Grandfathers is off limits to you. Their own government workers, no matter how lowly, can go all over the range whenever they want and from the looks of things, take what ever they want.

All that is left at our old headquarters is whats left of the adobe house, a tin chichen house and a pipe sticking out of the ground represents the well. They have a man-made mountain where the stock tank and corrals once were - and a Military Installation on top. All destruction is said to be due to Acts of God or Natural Causes. The barn and sheds were burned to get them out of the way. I don't know what happened to the windmill and tower but its all gone anyhow.The other places are in even worse condition. The Game Department forced them to keep one well pumping but how the game is expected to get water is beyond me. On some visits there was no water at all. There is a small water tub and if it doesn't run over the Quail or other small animals can't drink at all.

Some of the lease money hasbeen paid regularly,then some has had skips of as much as three or four years. I do not have an accurate account as it is paid to the First National Bank in Albuquerque, N. M. and sometimes my checks are only listed as release of income. Sometimes it says back pay so I do know of the delayed payments.

When it was decided to take their final offer because I was advised that we might loose even more, they included some money for the lease on State land until the lease was to run out October I,I983. None of these papers have come for my signature.

No accurate records of all the travel expense and lawyers was kept but since the Appraisal in I968 which cost $2,250.00--- the expense of legal fees and appraisals from July 24,I980 to May I6,I983 have been $6,642.4I,plus one that I haven't recieved yet. I'm sure it will not be small. A total of $8,892.4I so far.

June 2, 1983
Mildine Green Danley
Willie Danley

Box 207
Tularosa, NM 88352

This all begins in August of 1941. The army decided they had to have a range to train their boys to send overseas to the war.

At this time I was 13 years old and was a victim of a broken home. My mother, Eva Henderson Wood and my dad, John H. Wood had divided property. Dad's ranch was in the mountains and Moter's ranch was in the flats in partners with her dad, G. W. Henderson.

At this time a number of our local boys from the mountains had been drafted to the service to serve in the United States Army.

Government appraisers appeared at the ranch and took a list of all improvements and stated that this was a must as everthing would have to be replaced the same when they turned the places back.

When they arrived with a contract to be signed they stated they only needed the land for the duration of the war-which they figured 2 or three - that the boys was risking their lives for the country and all they were asking was for the use of the range to train the boys , also that the range needed a rest-from livestock, to help it build up and they would still get paid great money for letting it build up so a contract was signed instead of the comdennation suit the Corps of Engineers threatened them with.

This only took in my mother's place. Dad's place was on the western boundry. It was first taken for co-use then later for exclusive use.

We then received notice from the government to vacate the premices. We sold our horses to some one in Texas. Our goats to a man in Red Rock New Mexico and took a second morgage on his farm. We delivered the goats to Tularosa in December. A snow storm hit and we had lots of problems trying to keep them from freezing as there was no sheds or any wind breaks on the flats. We got them thru only to be beat out of the money for our goats. The guy took bankruptsy and we never received a dime for our goats. Mom took the horse money and invested it into sheep and we obtained pasture on the St. Augustine Plains near Magdalina, N. M., still thinking that in a couple of years we could take them back home, but this didn't work out. There seemed to be no way you could out guess the government as to what their intentions was. They didn't seem to know themselves. You would hear rumors to the effect that they didn't need the range any longer but each year they didn't turn it back.

I moved to my dad's ranch in the summer time and upon graduation from High School started building my livestock up this was in 1945 an and in March of 1946 I was drafted into the Army of United States. When I was discharged in 1947 (18 months) I found that the government had quit paying the people for their lease but was continuing to use the range . Some on the outer edges of the range returned home but my mothers place was in the middle of the range and they wouldn't give us permission to move back.

Once again they offered us a contract to sign or be faced with a comdemnation suit. A supplemental agreement to the old contract was signed . Once again they made it clear that at the time they turned the places back, all improvements would be put back in shape just as they were, at no expense to the people. If they tore something up they would fix it and if they bombed your house they would build you another one. this lease was for 20 years to expire in 1970. At this time they agreed to restore the places to there original condition.

These were small lease payments with no way you could depend on them.. The contract gave the government all the benefits at their option. They could use them another year or give you 90 day notice and turn them back. Although prices on everything changed through the years the lease payments remained the same.

In 1970 when time came for the old contract to expire the Corps of Engineers called a meeting at the White Sands Missile Range. We found then that they had took away our ranch unit and placed our private land in a position that it was land locked. We also found that they had no intentions of honoring their contract. They offered 1/3 the lease payments that they had been making for 20 years, which should have been 3 times more.

We asked for help form every senator, congressman and governor got lots of promises but no action.

Then to c omdemnation suit and court. They have the upper hand. We have nothing. All they have to have is a reason to want. We have to pay for a lawyer and help pay them to fight us also. A judge is supposed to be interested only in justice. I felt this to be untrue in this situation. The Judge would not hear the whold story of the people. It seemed the only thing he would look at is the need of the range by the government.

We wanted the government to honor their contract before any negotations but the judge ruled that the first contracts weren't worth the paper it was weritten on. anything the came up with to determine a fair settlement the judge stated he wouldn't even hear it in his court before they fincished they allowed us nothing but bad memorys of the Corps of Engineers even after going to court and determining a fair and reasonable price they chose to appeal to higher court so more expence and problems. then after they still had this argument going they condemned the pla ces to buy throwing it plumb out of the lease and into a loosing battle all the way around

They offered a small price for what they considered you had and dared you to prove different especially knowing the law firm which we had hired would deal with them just a little over their offer and both come out. The government and the lawyer the rancher lost just as soon as Uncle Sam pointed his finger at his property.

We were forced off my dad's ranch by a United States Marshall obtained by the White Sands Missile Range as what they called Range Riders. We were unable to find any place to move our cattle therefore we had to take a very low price for them, $42. a head out the gate only about 30 head had small calves and they cut them back.

We sold all but the thiry head and leased an alfalfa field above Socorro. It cost us more money to lease pasture and move than the government paid us for leasing our whole ranch.

We were forced into a situation that nobody can beleive until they have been there. We had no place to go with our ranch and household, such as small engines for pumping water, extra sucker rods and pipe, hay rakes, waggons, years of accumulation to take care of and not even a house to live in. Most of this had to be left at the ranch and we moved to town, no job and no direction to turn to.

Not only was we denighed the use of our pasture but also our home. We had to rent a house, apartment or something. What we left on the ranch was hauled off by what we figured the riders. Any way they were being paid to guard the range and our stuff disappeared. Then the government made the statement that we had been generously paid for 20 years.

Through having to hire expensive lawyers, find another home and a new way to make a living, leasing to the government can be very costly. They could have paid us twice as much lease and we still would not have broke even.

As to the dealings and the way ranchers were moved and dealt with by the government could be very lengthy but I'll try and cut it short because it would take a book to tell it all.

When the range rider along with a U. S. Army major came to my uncle's place. The range rider told my uncle that they were there to move him and his livestock off his place. My uncle explained to them that he had a place leased to go to but he couldn't take possession until the 15th of the month and this was the 1st. He told them if they would give him 15 days he would have everything cleared off the range. The Major stated that sounded fair enough to him but the range rider (Floyd Adams) stated, "We are here to move these cows and we are starting to move them in the morning and we did. By not being able to wait 15 days he was forced to sell his cows the same as us to a low bidder for $42. a head

We gathered our horses and moved them to the Phillips Hills joining the range. The Army broke the fence down recovering missiles turning the horses back on the range. They went home. They would not give me permission to go after them or to check on them. Mr. Adams stated that that was his job. So we set up a date to regather the horses. A week before we were to gather the horses we had a call from Mr. Adams that the horses was in a corral at Doug Cains. Me and Roy Tucker arrived at Dou Cains early next morning to find that according to the ranch forman at Cain's,Mr Sandy Waler, that the horses had been placed in a dry corral two days before without any feed or water These horses were something else. They were sick, drawn and in a very hard shape. Stock in this shape can't be sold, shipped or anything else so I just opened the gate and let them return to their home. Mr. Adams was pretty mad but so was I.

We made another date to gather the horses and found the same thing upon arriving, that they had been working horses for more than a week and all was drawn for lack of feed and water.

Every one of these ranches had holding pastures where this stock could have been kept in good shape until we could get but they only used dry pens and no feed. By the time we could get to our stock they were drawn to the point of sickness and not fit for sale. We moved what they had off the range. My pasture was just a short distance west from where they being held but the range riders chose to take them the opposite direction causing me to have to haul them over two hundred miles by truck. This was the type of cooperation we had with these people.

These are only a few examples of things that happened during that time. They fenced all the warerings even capped some of the wells, starving deer along with livestock to death. They roped and practiced on livestock. Boy they ahd themselves a ball. To me the government was responsible for everthing these men did. As one was supposed to even be a U. S. Marshall(Wow)

What the government paid these people for I can't say. It sure wasn't to protect our property or to use any common sence in taking care of anything. The only thing I can see was to keep the ranchers from going home.

These ranchers are not communist or any way harmful to our government and if they decided to go home the don't need any escort, they all know the way home. They don't need roads, gates or anything just a need to go they have paid the range riders more for their playground than they did most ranchers for their place

We spent 20 years under government contract which they held us to but wehn the time came for them to honor their own contract they chose not to and the judge went along with them

They took it as a ranch unit then when it became to time to turn it back they land locked us and stated we had nothing

To sum this statement up- Mom's Eva Henderson Wood's, place was taken in 1940 in the original take over. She was guarenteed that her ranch would be turned back at the end of the war in the same condition it was in at the taking.

Dad's, John H. Wood's place where I was ranching was on a co-use area until the 1950 take over. At this time more land was needed and ours was included. The problems changed over the years but probably because I was older and more involved. We had the same lies-runarounds and unfulfilled promises made by people sounding like they had the authority to make comprimises and promises only to find out they had none what so ever after you had made an agreement on the strength of their word.

Then we learned lots of big legal terms in 1970 when we learned that our Taylor Grazing land was now Dept. of the Interior land (Public land order 833) and our ranch unit was our patented land and state leases and state land to condemned the same as ours. Next we were told that to be able to settle out the old contracts we had to agree to restoration prices for the improvements. By the way, since the improvements were no 30 years older this much depreciation was included in their offer. The contract we had to sign to terminate the old 1950 contract, in spite of our lawyers understanding proved to be a bill of sale to our improvements instead of money to restore them, this according to the way the law intereputed it left us with un-improved waterless land to which there was no access because of the federal land surrounding it. The Corp's of Engineers contended that our land had little if any value and the court agreed.

Yes, theres been papers signed but under threats of condemnation and because of just plain lies. Most of our older people are gone but it would be great if the ones left could see some justice while they're still alive to know it!

Howard O. Wood
Box 993
Tularosa, N. Mex
88352

W. F. Martin
P.O. Box 1006
Socorro, N. M. 87801

I was born July 13, 1915 in San Marcial, N. M. My father, James E. Martin, and mother, Georgia Ann Waldrip Martin, were living on a ranch thirty five miles south east, on the Journado del Muerto. My grandparents on both sides were sheep and cattle ranchers.

In 1927, on the third of October, my father was drown in a surface tank on the ranch and I was forced at the age of eleven to assume the responsibilities of managing a ranch and provide the livelihood for my mother and two younger sisters, aged nine and four.

I completed one year of high school at the local rural school before the depression, riding horseback eight miles to school each day.

After I was grown, I returned to high school in the autumn of 1937. I took six subjects each year for two years, completing three years of school work while managing the ranch. Immediately following my graduation I devoted all of my efforts to developing water on the ranch and improving it in general.

Within three years the War Department decided they needed my ranch along with a number of my neighbor's ranches for a gunnery and bombing range encompassing an area 30 x 66 miles. They stated that it would be returned to our use when it was no longer needed for the war effort.

Our BLM permit for 330 head of cattle was cancelled on December 31, 1941.

We were fortunate to obtain pasture for 200 mother cows at $1 per head per month on the Quatro Amigos Ranch at Three Rivers, New Mexico. Driving or trailing the cattle was the easiest way to get them to the new pasture, which was forty or fifty miles from the old range. However, the time of the year we were forced to move caused us a loss and considerable hardship. The cows were having new born calves and as a result we lost several calves and two or three cows.

There was no place to live, and we had to rent a house in Tularosa, N. M. It was necessary to continue payment of taxes and state leases on the original ranch. We were not made and offer or paid any money to relocate.

Finally we accepted an offer of $4500 for three years lease, with the option for them to renew the lease, year by year as long as the need was there.

Between 1942 and 1952, I was able several times to almost get back on my feet and acquire some holdings, but something always happened, so that I had to dispose of a lot of my cattle, which forced me into a corner. In 1948, Congress failed to appropriate any money to lease the range. By 1952 they had negotiated a 20 year exclusive use lease on a larger area, year by year, provided congress appropriated the money. I was forced to sell everything I had because there was a drought on and no place to go with any cattle except to the market and the bottom had fallen out of the cattle market again.

At that time the lease money the Government was paying wasn't sufficient to pay the interest on the purchase of another ranch with comparable carrying capacity. All lending institutions wouldn't lend a dime on your ranch because you didn't have any collateral.

Frank Martin

J. P. WOOD STORY

In 1941, the Government took the original Alamogordo Bombing Range. This affected about 3 sections of our range. The boundry was about 3 miles East of our headquarters.

In 1945-1946 the Army decided they needed the range for missles and expanded West 5 miles. This was a co-use lease and encompassed our entire ranch unit. This affected others also. Later in the year of 1946, the disbursing agent paying for the old Alamogordo Bombing range ceased sending out lease checks, and many people moved back. Some of them still had livestock, others had to buy to re-stock. All thought that they were going home to stay.

In 1948, the Army called all ranchers involved, to a meeting in Alamogordo, and at that time, told every one they were taking over the entire range for a period of years, not to extend past June 30, 1970. Many ranch units were re-appraised and all were forced to sign a new lease. This included the 5 mile western extension. There was no direct order for anyone to move at that time, so many continued to ranch and try to catch up on their maintenance which was badly needed.

When the final move came, an Army Major came to our ranch. He threatened to arrest me if I didn't move immediately. I promised to try to be moved in the (2) two weeks he alloted. I had little help, as my three young sons at home were all small. I wound up leaving furniture, stove, wagon, fence material, plumbing material and other things that were of value to me. Most of this was stolen within a year and was not listed on the appraisal sheet. I was given no expenses for moving.

I had to leave a ranch unit with a carrying capacity of 235 cattle and 5 horses. I had to sign a lease agreement which would not allow me on my ranch, forced me to continue paying BLM lease and State lease, leaving very little to live on. I moved the cattle onto a small farm I had acquired in the Socorro area and tried to find pasture for lease. I couldn't buy another ranch, as the lease agreement with the government was written in such a way that it held no security for the banks to loan money on. I finally had to sell out when I could find no pasture for lease and my hay ran out. I took a huge loss on my cattle, getting about $75.00 dollars per cow and calf unit, when they had been selling for over twice the previous year. In the meantime, I had been fighting a bad case of dermatitis for over 5 years and the doctor bills kept mounting, my wife had to drive a school bus and tractor and send our four youngest children to school.

I got enough from the cattle and horse sale to pay off the mortgage on my ranch, clearing the way for us to move back when the Government gave us back our places.

With doctor bills mounting, I finally found a job with a roofing company, at the age of 59, I went to work trying to support my family by carrying 5 gallon buckets of hot tar up a ladder to others putting roofs on buildings. I also fired the tar pot and carried rolled roofing and gravel.

I still had hopes of getting my ranch back. I guess I was just simple minded enough to think that the government would play fair with us.

My family grew up and had to take jobs supporting themselves, but up until 1970, we all thought we would get to go home.

After I left Alamogordo, I got a job with a Security Firm and worked there for a while in Albuquerque. Then I took a night watchman job with Wylie Construction for several years. I finally moved out near Stanley, New Mexico, and retired.

My wife has been going to psychiatric Clinic for the last year and a half, and I still have my skin condition.

Besides our mental and physical conditions costing so much, it has also cost us around $10,000.00 lawyer fees, $3,000.00 for an appraiser and over $1500.00 for travel and other expenses for which we have the government to thank.

I did not inherit the ranch which my father homesteaded. I traded for it. My father and mother raised 10 children on this place and I've in turn raised 5 children on this place up until they took it away from us. My mother outlived my father by 30 years, passing away in 1965 at the age of 93. My mother always wanted to go back home, to the ranch, but that was impossible.

In regards to the visits to the ranch, they always made you feel like a criminal. They always had a guard go with you and there were certain places you couldn't go. We had to pay them to allow us to see our places. They were nasty even before we moved, stopping us at the guard shack going into Tularosa and holding me at gunpoint for up to three hours while they talked on the phone or radio.

They would finally allow me to go on through but it was always a struggle to keep in line with their regulations, even after they told me I could come and go as needed.

The government brooked no oposition and ignored all appeals, both when we signed the leases, and when we were evicted.

I never received any offers from the government Everything came through one lawyer, with whom I had signed up. When I found out he was selling us out, I tried to fire him, but it was already too late.

The government could have dealt with us as individuals contacting each one and doing business face to face instead of forcing us to hire lawyers and costing us more money as well as doing us out of our places. Most of us wound up getting paid about one-twentyth of what our places would have brought on the open market. We were cheated out of our BLM and State leases. They reneged on the government leases, then outjudged and out-lawyered on our private holdings.

As this is being written, the government is still doing the same. The McDonalds have been before a commission in Las Cruces recently, and the government appraiser again has set extremly low value on their private land. IF THAT COMMISSION listens to the government, they will again allow another rancher to be cheated out of a fair price for his private holdings.

November 12, 1983

Senate Sub-Committee
on Public Lands and
Reserved Water
Washington, D.C.

Dear Sir:

I am Neil A. Bruton, the second son of Allene Bruton, writing you to tell of her lifetime experience with the White Sands Missile Range. I chose to write this, on her behalf, as I do not want her to build up hopes for a realistic settlement only to break her heart once again.

My mother, Allene Bruton, was reared by her mother and an abusive step-father in the teens of the 1900 century. They were very poor and she tells of how she was demanded to hoe farm fields as a very small child and fortunately did attend school through the eight grade.

My mother and father, Wesley Bruton, married and homesteaded one section of land. They borrowed a well rig from a neighbor and he helped them drill their well. They fenced in their government grazing allotment and bought an old two room railroad shack and erected it. My father had taught school for a few years and saved enough money prior to their homestead and marriage date to buy a few cattle and pay for the improvements on the homestead in 1930. They also bought a small ranch seven miles west in 1937, but not being adjoining property.

The year of 1941 the second World War was going on and my parents were notified by U.S. Government officials that their old homestead ranch was needed for a bombing range. The government would pay them a lease each year until the war was over and they would get the ranch back, in like condition as when they vacated it, in a short period of time. If they would not accept the terms and conditions of their contract the government would condemn it and probably pay less. They were told this would be their contribution of patriotism to help keep this country free.

My father passed away in 1944, leaving my mother with two sons, Jack age fifteen and myself age thirteen. My mother operated the ranch outside the bombing range raising my brother and I, sending us to school living with relatives in town. My brother and I helped at the ranch on weekends and in the summer.

My mother was left alone each winter taking care of the cattle and ranch. The loss of the small ranch in the bombing range left it most difficult with her financially.

When the war was finally over and our country victorious, she expected the government to keep its word and allow her to return with our cattle. This was never done. Her years of agony fighting the government for a fair settlement in a legal manner has ended in despair.

My mother is now seventy five years old and not being in very good health. She is a remarkable woman and has contributed more than her share to our present society.

After forty years of agony with her land dispute she now lives, still alone, very moderately on her life time savings, though she has never considered applying for welfare.

Thank you for taking the time to read our story, we hope and pray that you will consider in making your decision the emotional and financial hardships that she, as well as many others, have endured through the many years.

Sincerely yours,

Neil A. Burton
P.O. Box 521
Socorro, N.M. 87801

P. O. Box 577
Las Vegas, New Mexico 87701
November 8, 1983

The Honorable Malcolm Wallop
Senate Subcommittee on Public
Lands and Reserved Water
Washington, D. C. 20510

Dear Sir:

I am asking for your help in urging the passage of the bill to compensate the New Mexico ranchers who had to give up their ranches during World War II for war and national defense purposes.

My daughter and her husband had worked hard to make their ranch into a hoped for life income and something to pass on to their children but were forced to move and find other work when the ranch was taken and not returned as promised by the Department of the Army.

It has been heart-breaking for them to see their home ruined with no hope for the future, to see their cattle being sold at a low price and not be able to buy another ranch where they could continue with the work they loved doing because promises were not kept and land was not returned.

Sincerely,

Rose E. Wesner

Rose E. Wesner
Mother of Florence W. Martin

607 Meadowcrest Drive
Las Vegas, New Mexico 87701
November 8, 1983

The Honorable Malcolm Wallop
Senate Subcommittee on Public
Lands and Reserved Water
Washington, D. C. 20510

Dear Sir:

Please urge passage of a bill to compensate ranchers for property taken by condemnation for the White Sands Missile Range.

How many voters would stand for the treatment the ranchers on the White Sands Missile Range, New Mexico have received from the Department of the Army? The ranchers have been patient for forty-two years living in hope of returning to their ranches.

I have watched my sister and her family's "ups and downs" with plans for the return of their ranch. My brother-in-law's family homesteaded the ranch and he worked for many years building up the number of cattle, building windmills, repairing fences, building and repairing their home only to see the ranch destroyed and not repaired as promised by the Army Corps of Engineers. They could not get a fair price for cattle when they had to sell and it has been very hard for them to go into another business when ranching was their life.

Sincerely,

Mrs. Carl Schwede

Mrs. Carl A. Schwede

923 Eighth Street
Las Vegas, New Mexico 87701
November 8, 1983

The Honorable Malcolm Wallop
Senate Subcommittee on Public
Lands and Reserved Water
Washington, D. C. 20510

Dear Sir:

Your help in urging the passage of the bill to compensate the ranchers displaced during World War II would be greatly appreciated.

I have watched my sister and her family so frustrated because they could not get just compensation for the land they so dearly loved, worked and hoped to live on the rest of their lives.

The Frank Martin family homesteaded their ranch and have deep roots in the ranching business but were unable to continue at the ranch when it was taken for war and national defense purposes in 1941.

Sincerely,

W. J. Wesner

W. J. Wesner

JULY-21-1983

In 1941 somebody started a war and the government said we need a practice bombing range, so why don't we just move this bunch of ranchers off their land and tear down all the improvements. We will pay them a small lease and promise to return their land when the war is over. We were not paid anything for relocating, they just set a deadline for us to move off and sent a U.S. marshal around that day to be sure we got out.

When they told us they were going to take the ranch we drove all over Arizona and New Mexico trying to find a ranch that would compare with ours. Because the lease money the government offered for our ranch was so little we couldn't put much on a down payment and when the banks learned that the land we had for collateral was on the bombing range they would not accept those conditions. Due to no moving compensation from the government we had to take what limited funds and borrowing power we had and start with something of lesser value. My dad had bought some land east of the Lava Beds before the war started and by all of us getting outside jobs we were able to buy more land adjoining this and have some place to move our cattle off the bombing range.

We lived in good adobe homes before we were kicked out and because we received no relocation expense we were forced to live in two room shacks lined with cardboard boxes. We had to dig cisterns because the water was not fit to drink. This was very difficult for the women and children to adjust to. Our children suffered the most because they had to ride a 75 mile school bus route, leaving home at 6:30 and returning at 6 PM.

In 1944 the government decided the range wasn't big enough and they added three miles to each side for a safety zone. This took in most of the new ranch we had built up. We were allowed co-use to run cattle but had to move to town. with all school children.

In 1945 they quit paying lease but would not return our land. We were allowed to move some cattle back but not to live on it. The houses were torn down and most of the fences were also. We tried to make the government restore the ranch to the original condition [illegible] then they condemned it like the agreement said but this was ignored. Since the war was over and they couldn't use the war for an excuse to play on our patriotism they just stalled us and ignored our right to return home.

In 1950 the government decided they wanted a missile range. Since the bombing range had not been turned back, although no lease was being paid, someone made the decision that they had a good start right here. The ranchers held a meeting and all agreed that they would rather have their ranch back rather than lease it. The government called a meeting in Alamogordo and sent J.K. Shadel a Corps of Engineers representive and a lawyer named Cooper to do their dirty work. They knew that ranches were appraised on there carrying capacity plus improvements. If they used the fair market value appraisal system that would force them to pay more for lease than they wanted to. So they approached a few of the smaller owners from the south end of the bombing range and offered them more lease than they expected to get and they took it. This broke the unity of the ranchers and that was Shadel and Coopers main objective. After that each rancher [illegible] own and since most of [illegible] either their land back or some lease money to survive we were at the mercy of the Corp of Engineers to pay what they wanted to. Many deceitful tactics were used to show that this country was worthless for anything but a missile range.

In my familys case we had two ranches totaling 41 sections (26,240 acres) The first ranch had 21 sections, of this 3,200 acres is patented land, 240 acres state and the rest BLM. It has a cow carrying capacity of 280 head. The second ranch has 20 sections of which 14 was taken when the range was widened by three miles. This one has on the range 1600 acres of patented, 4,200 acres of state and the rest BLM. It has a carryin capacity of 550 head with 525 of this on the range. With a total capacity of over 800 head between the two ranches I would like to know how the Corp of Engineers convinced someone that this land was worthless. You can check the record to see how little of a lease was paid.

We had co-use until 1951 but the Army decided they wanted total possesion and this left us with six sections outside of range and a 23 head BLM allotment.

In 1980 the government decided they wanted to own the range and not pay anymore lease. They would not recognize that state and BLM has a value. We were forced to hire a lawyer to keep from being totally taken advantage of and did received more than was originally offered for patented land. However we did not received enough to restore the ranches to original condition.

We paid lease on the state land until 1982 but the government would not pay for anything but patented land. When my mother died we paid inheritance tax on all of the land. When the government is paying out only patented land is worth anything but when you owe them the whole ranch is valued as if it were being sold on the open market.

To sum it up, we have never received any money for relocation expense. We have been lied to and taken advantage of for over 40 years. When I hear our government is making plans to pay a bunch of Japs for their inconvience since they were the ones who started this whole mess I am very confused about who my government represents.

J.V. Withers
PAT WITHERS

P.O. BOX 712

CARRIZOZO, N.M.

White Sands Ranch, Inc.
Response to GAO "FACT SHEET RELATING TO THE ACQUISITION OF PROPERTIES FOR WHITE SANDS MISSILE RANGE AND FOR THE McGREGOR RANGE"

Since we are not in possession of the GAO report mentioned in paragraph two of this report (GAO/PLRD-83-31), we will respond only to this "fact sheet".

Our general feeling as we read this report is that it might as well have been written by the Corps of Engineers. GAO does not show the "facts" but uses information provided by the Corps. This information is all biased in favor of the Government. We have no doubt that the figures used are correct, but they have been manipulated to make it appear that the ranchers involved in the taking of WSMR have been paid much more than those involved in the taking of the McGregor Range. You will notice that the GAO uses the term "According to the Corps" in their report. They also use the term "According to the Corps of Engineers records" and "Corps officials told us". Never in the report do they refer to any direct interviews made with the ranchers nor to any of the information presented by the ranchers. On page 2 they mention that the ranchers "contend" only that they did not get their money up front. The GAO report does not state the ranchers' contention with the Government in the matter; rather it is in defense of the Corps of Engineers.

On page 1 of the GAO report they state that "it would not be appropriate for the GAO to evaluate and reach conclusions," yet they go ahead and present "facts" that substantiate the Corps actions and do not present the "facts" that we, the ranchers, submitted to support our claims. They use the term "prejudice the Government's court cases". By use of this term they are admitting that, in their opinion, the Government is in error in its actions. If they were to give their true evaluation, the Government's court case would be injured or damaged (Webster's definition of the word prejudice). This report (GAO/PLRD-83-31) has not been made available to us at this time.

The GAO did not address or attempt to address the main issue. We have received only partial compensation for our ranch units. The Government has attempted and managed to devaluate the ranch units to a fraction of their worth. They divided the unit into different segments and then proceeded to take each of them separately. By this method they have divided the whole into small parts, diminishing the true value of the ranch units. The GAO report shows on page 1 that the land taken in the beginning - both McGregor and WSMR - was ranch units. They point out this fact, as well as showing the types of land involved. On page 7 of the same report, the McDonald Ranch was considered by the Government (Corps of Engineers) as a ranch unit. The original appraisal was made on a ranch unit basis. The value was determined using a cow year long (CYL) carrying capacity. All of the other ranches on WSMR were evaluated using the same method.

The ranches on McGregor Range were evaluated by the same method. Page 10 shows that all ranches were evaluated the same way. These ranchers were paid for their ranches on this basis. The ranches were not divided into the different classifications of lands and then purchased either by "voluntary agreements or through condemnation." Note on page 10 that "carrying capacity was based on the cow year long (CYL) capacity of the entire tract." Note also "A portion of the animal unit value includes the value of the improvements." Note also "Total value obtained by multiplying the carrying capacity (CYL) by the animal unit." These prices were "fair market value" at that time. This was the method used to compensate the ranchers for the taking of their ranches on the McGregor Range.

The GAO report explains the taking of the land from the ranchers for WSMR from page 3 to page 6. The public domain was "withdrawn." The private land and state-leased land were separated. It is explained in terms that make it appear as though the ranchers were well compensated for their ranches. This is far from the truth.

We must disagree with the GAO statement listed on page 2 of this report that "sketchy records are available." We are positive that all records of these two acquisitions are available in the Government's files. We have called the Government offices at WSMR and been able to get anything relating to our dealings with the Government as far back as we have wanted them. We have called there within the last couple of months and received, at once, copies of contracts between us and the Government that existed back into the 1940's and have not been in effect since that time. It appears that the GAO did not put forth the effort to try and obtain these records. Either they were snowed by the Corps of Engineers, or the records were intentionally withheld from them.

Page 2 shows that, in the beginning, CYL carrying capacity was the basic consideration used in the determination of the value of the ranch unit. We must totally disagree with the GAO statement on page 2 that "The difference in the acquisition procedures was not in the timing of the payments." Please note on page 10 of the GAO report that the value of the ranches on the McGregor Range was calculated on a CYL carrying capacity. The animal unit value was multiplied by the CYL carrying capacity. The total value of the ranch was determined and then acquisition settlement payment determined and negotiated. None of the figures listed here add in the lease payments as part of the purchase price. The land was not parceled out and negotiated according to separate classifications.

In a few instances on McGregor the Government had to go into condemnation, but even then the condemnation was for the ranch unit based on a CYL carrying capacity. We would like to emphasize once again that the lease payments were not considered as part of the purchase price.

The method of acquisition of the lands on WSMR was to lease for 30-40 years. They then broke the ranch units into lands of different classifications (Federal, private and state lease). After this, they claimed that the lease payments over the period of years was just compensation for the federal lands. They then set about to purchase the private lands for the least possible price. They entered into condemnation. This was necessary because they would not negotiate in good faith with us. In court they claimed these were isolated parcels of land with no access. This was true to the extent they were surrounded by the missile range. The Government has tried to get the state lease lands with no compensation to us. This is still in litigation. There is no comparison between the methods used by the Government in the taking of the lands on the two missile ranges.

On page 2 of the GAO report the statements made indicate we have been paid for our ranch units over a period of time. This is not true. We had a year-by-year lease with the Government. They had a 20-year lease with us renewable each year at their option. We could not borrow against the ranch unit involved. We could not plan more than one year in advance, as the Government could have released the land back to us at the end of any given year. (See Exhibit #2, "Agreement for Use and Occupancy of Land," 1 August 1945 to 30 June 1950, paragraphs 7 and 8; and also Exhibit #3, "Lease and Suspension Agreement," 1 July 1950 to 30 June 1970, paragraph 4.) Notice also in these lease agreements that there is a final termination clause. The lease was in no case to go beyond the termination date.

In paragraph 2 of page 2 of the GAO report they make the statement "...it has been alleged that ranchers displaced by the McGregor Range received more equitable compensation including resettlement payments." They then open the next paragraph comparing the per acre cost of acquiring McGregor Range with that of WSMR. This is comparing apples with oranges.

First, let's address the resettlements. As the GAO report indicates, some of the ranchers on the McGregor Range did receive resettlement payments. Only the Government records would show how many and the extent of these payments. We, on the WSMR acquisition, did not receive any resettlement payments.

Second, we would like to discuss the GAO statement that "the average costs for the 1.9 million acres at White Sands was about $12 an acre, and for the 720,000 acres at the McGregor Range the average cost was about $4.74 an acre." The costs per acre for the acquisitions of the property on these two ranges is stated to confuse and mislead. It is used to indicate that the ranchers displaced by WSMR received more compensation than those displaced by McGregor Range. We would like to point out the following:

1. The cost of the land for the two ranges should never have been compared on a per acre basis. It should have been compared on a CYL carrying capacity basis. This is the way the land on the McGregor Range was purchased and the way the leases on WSMR were calculated in the beginning. Since the Corps and the GAO used these figures, we will use the same figures to show the discrepancy of the comparison.

2. The $4.74 per acre figure used for the cost of the land on McGregor is almost entirely the cost of the purchase of the land. Very little of it was lease money. The cost was also mid-1950 prices for the animal units purchased. This was because "the Government recognized a permanent need for the McGregor Range shortly after it took possession of the land" (lines 4,5, page 3 of the GAO report). With this foreknowledge they were able to buy the ranch units at "fair market value" at mid-1950 prices. This figure was approximately $230 per cow unit (the average of the figures listed on page 10 of the GAO report.) These ranchers were able to go out and purchase comparable ranches at that time with the money.

3. The $12 per acre figure used for the cost of the land for WSMR includes 30 to 40 years of lease money paid out to the ranchers. It also includes payment "in lieu of restoration" of the improvements. The Government was obligated to do this under the terms of the leases they had with the ranchers. (See Exhibit 3, paragraph 10.) Note page 6 of the GAO report. Under total payments they add the lease money paid (line 23), the payments in lieu of restoration (line 24) and the amount paid for the private land to come up with the total of $24,094,806.13 (line 26). They then divide this total by 1.9 million acres to get $12 per acre. The lease monies and the payment in lieu of restoration monies are costs to the Government for the lands but should *never* be considered or hinted to as the purchase price paid the ranchers. These monies were paid to the ranchers in fulfillment of a year-by-year contract. The Government could have cancelled at any time or purchased, as they did the ranch units on McGregor Range. Line 25 on this page is the only monies that have been paid to us for our ranch units. This comes to about $3 per acre for the land taken. And this is in the 1970's and 1980

as compared with the $4.74 paid to the McGregor ranchers in the 1950's. If we compare animal unit values in the mid-1970's and 1980 and land values for the same period, the Government should have paid us approximately $30 per acre NOT inclusive of the lease payments and payments in lieu of restoration. This would have been equivalent to the amount paid the ranchers displaced by McGregor Range.

4. The fault and resulting high cost to the Government lies in the ineptness of the Government personnel (Corps of Engineers and WSMR Chiefs). On page 3 of the GAO report it states that "when the Government first took possession of WSMR in 1942, a permanent need was not envisioned but with the passage of time one developed." We are sure that by the mid-1950's the Government could "envision" a permanent need for the WSMR Range. Hundreds of millions of dollars had been spent for permanent instrumentation on the range. It was billed and advertised as the most instrumented range in the world. The Government could have bought these ranch units at that time for the same cost per animal unit they paid for the units on the McGregor Range. However, they did not do anything about it as they had a 20-year lease which did not expire until 1970. And in 1970 they did not want to purchase these ranch units at "fair market value." Thus they had to devise a way by which they could cover up their ineptness. Nevertheless, it does not seem fair that the ranchers displaced by WSMR should be punished monetarily because of Government incompetance.

On page 3 the GAO states that "over the years, the Federal Government has withdrawn the public domain from public use." It was not withdrawn but allowed to expire by their own time limit. (See Exhibit 3, paragraph 3.)

The lease and suspension agreement we signed also stated that "the Government would not prejudize our right to renewal when the lands are returned to the Federal Grazing Administration." We have never received any notice from the Grazing Administration that these lands have been withdrawn from public use. In 1970 we were called to a meeting at the WSMR Base Theatre. The recordings from this meeting certainly must have been available to the GAO if they had desired to look into this in a thorough manner. At this meeting we were told by U.S. Army personnel that they had withdrawn the public lands. We were also told they were going to continue to lease the privately owned lands and our state leased lands, and that they would enter into private negotiations for each separately. They said it would be at a lesser rate than the one they had been paying. This approach was totally different from the one under which our existing leases were operating. We were to receive less lease than we had in 1946 for the same ranch unit. In addition, the withdrawal of the public land was a violation of the lease agreement we had with them. (See Exhibit 3, paragraph 9.)

We would now like to comment upon the section entitled Compensation for private property on page 5 of the GAO report. The Government condemned our private property and lease-held lands under 10-year leases. Each property had to stand alone. It was not to be considered by the courts as a ranch unit. This was totally different from the takeover in 1946 and again in 1950. We negotiated those leases on a CYL carrying capacity basis. This was the same way the leases and purchase on McGregor were done. In 1974, however, the Government began to "buy" the private land, continuing to lease the state land but ignoring the contributing value of the intermingled Federal land which makes up the ranch unit. In so doing they completely destroyed the ranch unit.

On page 6 of the GAO report, under the section *Total payments*, the Corps of Engineers tries to make it appear that the lands were acquired on a lease purchase agreement. *This is absolutely not the case.* The lease on which the Government paid during the approximately 35 years was *not* to be considered as part of the purchase price, no matter how long the lease ran or how much was paid. It appears the Corps sold the GAO a bill of goods! The payment in lieu of restoration of the improvements was to close out the old lease contract and was also *not* to be applied against any purchase price. It would seem the Corps sold this bill of goods to the GAO as well.

The "facts" as listed on page 7 of the GAO report are totally misleading. Note that the appraisals made by the Corps on the McDonald ranch in 1941 and again in 1950 were made on a CYL carrying capacity basis. We do not question the figures used here by the GAO as provided by the Corps. What we would like to point out is that the monies paid to the McDonalds were mostly for the annual rentals of this ranching unit. The McDonalds could have netted far more profit if they had been allowed to own and operate their ranch over those years. *If* they had sold to WSMR many years ago they could have continued in the ranching business. In other words, if the Government had bought this ranch in the 1950's, as they did McGregor Range, they would not have needed to pay so much money over the years and the McDonalds could have purchased a comparable ranch, as did the ranchers displaced by the McGregor Range. The $11.80 an acre listed on page 7, line 23 of the GAO report, also includes payment in lieu of restoration which should *never* have been considered as any part of the acquisition amount. The actual figure for the cost of acquisition of these lands should be the $35,200 (listed on page 8, lines 6-7) divided by 21,518 acres (page 7, line 15) which calculates out to $1.64 per acre.

Page 8 of the GAO report shows that $35,200 was deposited in 1980 "with declaration of taking for privately owned land" of the McDonalds. This is the ridiculously low amount the Government is attempting to pay the McDonalds for a ranching unit with a CYL carrying capacity of 370 animal units. Of course this is still in litigation, but if it is decided as many of the others have been decided the McDonalds will get very little more than this. This comes to $95 per animal unit, which is not even 1930's prices for ranch units. It should be in the vicinity of $2000 per animal unit, which means the amount offered by the Government is about five per cent (5%) of the value of this ranching unit. This is an excellent example of what the Corps of Engineers is trying to do to the ranchers displaced by WSMR. If the McDonalds and the rest of the ranchers were to be paid $2000 for the animal units displaced by WSMR they would be in the same condition as were the McGregor ranchers in the 1950's, and they could buy comparable ranches.

The McDonald situation is the same for every rancher displaced by WSMR. We will not go into our peculiar situation here as we are only attempting to show the folly of the GAO report and use their figures to make our point. Our particular situation is similar and will be described under separate cover.

See our Summary on the following page.

IN SUMMARY:

As we pointed out in the beginning, it appears this GAO report might as well have been written by the Corps of Engineers. It is in complete support of the Corps position. The phrases used throughout are "According to the Corps," "according to the Corps records" and "Corps officials told us." The report never indicates that the ranchers have contributed any information or evidence. They never refer to any interviews with the ranchers. They never show any information or use any data submitted by the ranchers. They never address the main issue that the ranchers raise. We were enthusiastic about the GAO getting involved, believing we would see a thorough investigation and a solution to the problem - either for or against our position. We saw neither. Instead, we are aware of only another half-hearted coverup by the Government. All ranchers involved in the displacement by WSMR have been hassled by the Government for 40 years. And the end is not in sight yet, as most ranchers are still in litigation over one aspect or another. In short, we are totally disappointed by the lack of effort put forth by the GAO.

Certified A True Copy
Leonard M. Cowley
LEONARD M. COWLEY, Lt Col, C of E

OCCUPYING AGENCY

W 41-038-eng-4391
PROJECT: WHITE SANDS PROVING GROUNDS, NEW MEX.

TRACT NO: B-109, B-109-1

NEGOTIATED CONTRACT
By: /s/ L. M. C.
L.M.C.

AGREEMENT FOR USE AND OCCUPANCY OF LAND

THIS AGREEMENT made and entered into this 1 day of August 1945 by and between Hugh Longwell & Mary Pearl / Longwell, whose address is La Luz, New Mexico hereinafter referred to as the Grantor, and the United States of America, hereinafter referred to as the Government. The parties hereto for the consideration hereinafter mentioned covenant and agree as follows:

1. The Grantor hereby grants to the Government the right to enter upon, camp upon, pass over, and to fire explosives and projectiles over upon and across the following described premises for and during the periods to be stated in the notices hereinafter provided for, and further agrees to vacate said premises during the firing periods as hereinafter provided. The premises covered by this Agreement are more particularly described as follows:

17,898.27 acres of land situate in Otero County, New Mexico more particularly described as follows:

Federal Land:

T17S, R8E: That part of Sec. 31, Southeast of U. S. Highway No. 70; T18S, R7E: S½ Sec. 13, that part of the W½ Sec. 14 Southeast of U. S. Highway #70, W½ Sec. 23, all Secs. 24 & 35; T 18 S, R8E: SE¼ Sec. 8, N½, SW¼, E½SE¼ & SW¼SE¼ Sec. 17, S½ & N½NE¼ Sec. 18, all secs. 19,20,29,30 & 31; T19S, R7E: All Secs. 1,11,12,13,14,23 & 24: T19S, R8E: All Secs. 5,6,7,8,17,18,19 & 20.

State Land: All of Sec. 2, T19S, R7E.

Patented Land: All Sec. 25, T18S, R7E, NMPM, NW¼SE¼ Sec. 17, T18S., R8E.

Exhibit 2

Tract No. B-109 and B-109-1

2. The Grantor also agrees that upon receipt of notices to vacate as hereinafter provided, he will evacuate the premises and remove himself, his family, employees, lessees and any other person or persons occupying or using the premises by permission by the Grantor and to cause the same to remain vacant and unoccupied for the period stated in said notices, except for the days upon which the Grantor will be permitted to enter the property for the purpose of watering and feeding livestock.

3. The Government agrees to deliver in person to the Grantor or a member of his immediate family at the address designated in paragraph 10 hereof, notices stating the dates that said premises are to be vacated, and the duration of each period they are to remain unoccupied by the Grantor, members of his family, employees, lessees and other persons occupying or using said premises by permission by the Grantor. Such notices will be delivered by the Commanding Officer, White Sands Proving Grounds or his duly authorized representative at least 10 days prior to the first day of each firing period. It is agreed that no single period for which the Grantor is to vacate the premises shall be longer than 20 days. The notices to be furnished to the Grantor shall contain a schedule of firing days and shall reflect the days during the firing periods on which the Grantor will be permitted, upon approval of the said Commanding Officer, to re-enter the premises for the purpose of watering and feeding livestock thereon. During the firing period the days upon which the Grantor will be permitted to re-enter for such purposes will not be more than two days apart.

4. It is agreed that during the periods that the Grantor shall be required to vacate the premises as herein above provided, he may continue to graze his cattle and livestock on the above described lands and it is understood and agreed that the Government shall only be responsible for damages to the livestock in the event that such damage is caused by the activities or negligence of the Government; and it is further understood and agreed that the Government shall not be required by the Grantor to restore said premises save and except existing buildings, fences, pipes

and windmills which may be damaged as a result of the Government's activities, in which event the premises shall be restored to the same condition in which they existed at the time of the commencement of use by the Government, reasonable and ordinary wear and tear and damages by the elements or circumstances over which the Government has no control, excepted. In the event of any such damage to the Grantor's improvements and livestock, he shall give written notice thereof to the Commanding Officer, White Sands Proving Grounds, at least 15 days after expiration of any firing period, supported by a detailed statement of the conditions of said premises, enumerating the loss and damage alleged and the estimated amount of damage.

5. A the time of execution of this Agreement the Grantor and Government will execute a condition survey report disclosing the type and condition of improvements on said land.

6. The Government shall pay the Grantor in advance for the use of the premises, the sum of Six Hundred-Seventy-Three & 84/100 Dollars for the term beginning 1 August 1945 and ending 30 June 1946, and thereafter at the rate of Seven Hundred-Fifteen & 40/100 Dollars per annum. Payment shall be made by the Finance Officer, U. S. Army, Fort Worth, Texas.

7. This Agreement shall remain in force from year to year without further notice; provided further adequate appropriations are available from year to year for the payment of the annual consideration, and provided further that this Agreement shall in no event extend beyond six months after the date of termination of the unlimited National Emergency as declared by the President of the United States in Proclamation No. 2487 dated May 27, 1941.

8. The Government may terminate this Agreement at any time by giving 30 days notice in writing, and the unearned portion of rental that may have been paid to the Grantor for periods subsequent to the termination date shall be refunded to the Government.

9. The Government shall have the right, during the existence of this

Agreement, to make alterations, attach fixtures, and erect additions, structures, or signs, in or upon the premises described herein, which fixtures, additions, or structures so placed in, upon or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government.

10. Any notice under the terms of this Agreement shall be in writing, signed by a duly authorized representative of the Government and delivered to the Grantor at La Luz, New Mexico.

11. The Grantor warrants that he has not employed any person to solicit or secure this Agreement upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Government the right to annul the Agreement, or, in its descretion, to deduct from the rental the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commissions payable by lessors upon contracts or leases secured or made through bona fide established commercial or selling agencies maintained by the Grantors for the purpose of securing business.

12. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

/s/ W. C. Boring
(Witness)

/s/ Hugh Longwell
(Grantor)

/s/ Mary Pearl Longwell
(Grantor)

UNITED STATES OF AMERICA:

BY: /s/ Leonard M. Cowley
LEONARD M. COWLEY, Lt Col, C of E

The supplies and services to be obtained by this instrument are authorized by, are for the purposes set forth in, and are chargeable to procurement authority No.
2/2/[illegible] 6-8 92-60 P260-10-541-038
the available balance of which is sufficient to cover cost of same.

co, wspg

ENG Form 818 7-3-44

SWFRE
Commanding Officer
White Sands Proving Grounds
Las Cruces, New Mexico

Tract B-109

Corps of Engineers
Southwestern Division,

Lease No. W 41-038-eng-4391

NOTICE OF CANCELLATION OF LEASE
(Restoration)

Dated 15 June 1950

To: G. B. Oliver
Alamogordo, New Mexico

Pursuant to Article 8 of a certain lease dated the 1st day of August, 1945, by and between G. B. Oliver of the first part, and the United States of America, of the second part, covering property located XX in Otero County, New Mexico said property being more particularly described in the lease referred to;

NOTICE is hereby given that the United States of America exercises its rights reserved in said lease and will quit, relinquish, and give up said premises at the close of business on the 30th day of June, 1950.

UNITED STATES OF AMERICA

/s/ H. K. Shadel
By ~~H. K. SHADEL~~
Chief, Real Estate Division

Receipt of the above notice is hereby acknowledged. A joint survey of the condition of the premises XX is not requested, as restoration XXXX will not be required by the Lessor under paragraph 4 of the lease. (Delete inapplicable words)
30-Day Cancellation Notice required by lease is hereby waived.

WITNESS:

/s/ John R. Cobb

/s/ G. B. Oliver
~~G. B. Oliver~~

/s/ Audra James Oliver
~~Audra James Oliver~~

Project: White Sands Proving Ground
New Mexico
Tract No.: E-109 and E-109-1
Contract No.: DA-29-005-eng-[illegible]

LEASE AND SUSPENSION AGREEMENT

BETWEEN

G. B. Oliver and Avira James Oliver

and

THE UNITED STATES OF AMERICA

NEGOTIATED: /s/ HFS
H.F.S.

1. THIS AGREEMENT, made and entered into this 30th day of April, in the year one thousand nine hundred and fifty-one, by and between G. B. Oliver and Avira James Oliver, whose address is Alamogordo, New Mexico for themselves, their heirs, executors, administrators, successors and assigns, hereinafter called the Grantor, and THE UNITED STATES OF AMERICA, hereinafter called the Government.

WITNESSETH: The parties hereto, for the consideration hereinafter mentioned, covenant and agree as follows:

2. The Grantor hereby leases, releases, and delivers possession to the Government of all rights or privileges he possesses to the following described premises for the Government's full and unrestricted use, viz:

(SEE ATTACHED SHEET FOR COMPLETE LEGAL DESCRIPTION)

together with all other lands and rights, privileges and interest on land, owned or controlled by the Grantor within the presently established boundaries of the White Sands Proving Ground Project.

DESCRIPTION SHEET FOR TRACT NO. E-109, E-109-1 and E-109-2,
ORDCIT PROJECT

PATENTED LAND:
Township 18 South, Range 7 East of the New Mexico Principal Meridian, Otero County, New Mexico, all of Section 25.

FEDERAL LAND: Dept. of the Interior (National Park Service)
Township 18 South, Range 7 East of the New Mexico Principal Meridian, Otero County, New Mexico, all that part of Section 12 lying southeast of U. S. Highway No. 70, less and except the E½NE¼ thereof.
Township 18 South, Range 8 East of the New Mexico Principal Meridian, Otero County, New Mexico, NE¼ and E½NW¼ of Section 7; E½ and SW¼ of Section 8.

FEDERAL LAND: Dept. of the Interior (B. of L. M.)
Township 17 South, Range 8 East of the New Mexico Principal Meridian, Otero County, New Mexico, all that part of the SE¼ of Section 31 lying southeast of U. S. Highway No. 70.
Township 18 South, Range 7 East of the New Mexico Principal Meridian, Otero County, New Mexico, S½ of Section 13; all that part of the SW¼ of Section 14 lying southeast of U. S. Highway No. 70; all that part of the E½ of Section 23 lying southeast of U. S. Highway No. 70; all of Sections 24 and 35.
Township 18 South, Range 8 East of the New Mexico Principal Meridian, Otero County, New Mexico, SE¼ of Section 8; W½ of Section 17; N½NE¼, Lots 3 and 4, E½SW¼, SE¼ of Section 18; Lots 1, 2, 3, 4, E½W½ and E½ of Section 19; all of Sections 20 and 29; Lots 1, 2, 3, 4, E½W½ and E½ of Sections 30 and 31.
Township 19 South, Range 7 East of the New Mexico Principal Meridian, Otero County, New Mexico, Lots 1, 2, 3, 4, S½N½ and S½ of Section 1; all of Sections 11, 12, 13, 14, 23 and 24.
Township 19 South, Range 8 East of the New Mexico Principal Meridian, Otero County, New Mexico, Lots 1, 2, 3, 4, S½N½ and S½ of Section 5; Lots 1 to 7, inclusive, E½SW¼, SE¼NW¼, S½NE¼, SE¼ of Section 6; Lots 1, 2, 3, 4, E½W½ and E½ of Section 7; all of Sections 8 and 17; Lots 1, 2, 3, 4, E½W½ and E½ of Sections 18 and 19; all of Section 20.

STATE LAND:
Township 18 South, Range 7 East of the New Mexico Principal Meridian, Otero County, New Mexico, all of Sections 25 and 36.
Township 19 South, Range 7 East of the New Mexico Principal Meridian, Otero County, New Mexico, Lots 1, 2, 3, 4, S½N½ and S½ of Section 2.

3. The Grantor warrants that he holds, or held prior to the Government's occupancy, title to and/or possession of grazing privileges on the above described lands under the following instruments;

U. S. Grazing License numbered ______________________________

which expires ____________________.

Lease from the Government numbered ______________________________

which expires ____________________.

U. S. Grazing Permit numbered ____(unnumbered)____________________

which expires __30 June 1958__________.

U. S. Forest Service Permit numbered ______________________________

which expires ____________________.

Lease numbered __S-4873________________, which expires 1 October

19 50__, from the State of New Mexico.

Lease dated ____________________ from ______________________________

(Lessor)

____

(Lessors - here identify railroad and other leases)

Conveyances dated ____

and recorded in the land records of ______________ County __________,

at Page (s) __________ __________, Book (s) ____________________.

4. To have and to hold the said premises with their appurtenances for the term beginning 1 July 1950 and ending 30 June 1951; provided, however, that unless and until the Government shall give notice of termination in accordance with the provisions hereof, this agreement shall remain in force thereafter from year to year without further notice; provided further that adequate appropriations are available from year to year for the payment of rentals and provided further that this agreement shall in no event extend beyond 30 June 1970.

5. The Government shall not assign this agreement in any event; shall not sublet the demised premises; and shall not use said premises for other than military purposes.

6. The Government shall pay to the Grantor for the use of the said premises, for the period beginning 1 July 1950 and ending 30 June 1951, rental at the following rate: Three thousand and no/100ths ($3,000.00) Dollars per annum. Payment shall be made at the end of each quarter by the Finance Officer, U. S. Army, Fort Bliss, Texas.

7. The Grantor agrees to continue paying the taxes, State or other lease fees and other overhead costs, unless payment of said fees is cancelled or forgiven by the Government.

8. The Grantor agrees that in the event the payment of State or other base fees are eliminated by reason of the Government acquiring title to said lands, the consideration for the renewal of this agreement as hereinbefore provided, shall be reduced in the amount of the annual lease fee or fees eliminated.

9. The Government recognizes that this transaction shall be without prejudice to the position of the Grantor in any application for grazing privileges made when and to the extent that the herein described lands are returned to federal grazing administration.

10. The Government shall have the right during the existence of this agreement to make alterations, attach fixtures and erect additions, structures or signs in or upon the premises herein described, which fixtures, additions or structures so placed in, upon or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. The Government shall surrender possession of the premises upon expiration or termination of this agreement and if required by the Grantor shall, prior to expiration or termination of this agreement, restore the premises to as good condition as that existing at the time of entering upon the same under this agreement, reasonable and ordinary wear and tear and damages by the elements or by circumstances over which the Government has no control, excepted: Provided the Government shall have the right and privilege of making a cash settlement with the Grantor in lieu of performance of its obligation, if any, to restore the real estate, personal property (if any be demised herein), or both real and personal property, which settlement shall in no event exceed the amount of any diminution in value of the premises resulting from the Government's use and occupancy; provided further that if the Grantor requires restoration of the premises to such condition or payment in lieu thereof, the Grantor

shall give written notice thereof to the Government at least 60 days before the expiration or termination of this agreement. Should a mutually acceptable settlement be made thereunder the parties shall enter into a supplemental agreement hereto effectuating such settlement. In the absence of a firm determination as of the date of this agreement of the purposes for which the Government will use the demised premises, the rental reserved herein has been based on the use of the premises for agricultural purposes. In view thereof, the term "reasonable and ordinary wear and tear," as used herein shall mean reasonable and ordinary wear and tear that could be expected to result in use of the premises for agricultural purposes. The kind, size, construction and condition of each artificial improvement is shown in detail on "Schedule of Improvements for Lease and Suspension Agreement," attached hereto and made a part of this agreement.

11. Provided that in the event any Government property is located on the demised premises at the termination date, the rental will continue until such property is removed, restoration completed as provided for in Article 10 hereof, or a cash settlement and possession tendered to the Grantor.

12. The Grantor grants to the United States the right of immediate occupancy and use of the land hereinabove described, for any military purpose whatsoever, from and after the acceptance by the United States of this agreement.

13. The Grantor warrants that he has not employed any person to solicit or secure this agreement or any agreement for a commission, percentage, or contingent fee. Breach of warranty shall give the Government the right to annul the agreement, or in its discretion to deduct from the rental the amount of such commission, percentage, brokerage or contingent fees. This warranty shall not apply to commissions payable by Grantors upon contracts or agreements secured or made through bona fide established commercial or selling agencies maintained by the Grantor for the purpose of securing business.

14. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit to arise therefrom. Nothing, however, herein contained shall be construed to extend to any incorporated company, if the agreement be for the general benefit of such corporation or company.

15. This agreement is made pursuant to authority of the Act of 9 July 1942, (Public No. 663, 77th Congress) as amended 28 May 1948 (43 USC 315q).

16. It is the intention of the Grantor and he hereby agrees that this agreement may be accepted by the United States through any duly authorized representative, by delivering, mailing or telegraphing a notice of acceptance to the Grantor at the address stated below, at any time within six months from the date hereof.

17. The Government may terminate this agreement at the end of any fiscal year by giving 90 days' notice in writing to the Grantor and no rental shall accrue after the effective date of termination.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

In presence of:

/s/ John R. Cobb (Witness)
/s/ John R. Cobb (Witness)
(Witness)
(Witness)

/s/ G. B. Oliver (Grantor)
G. B. Oliver
/s/ Auira James Oliver (Grantor)
Auira James Oliver
(Grantor)
(Grantor)

Box 647,
Alamogordo, New Mexico
(Address to which notice of acceptance of this agreement is to be sent)

ACCEPTED for and on behalf of the UNITED STATES OF AMERICA

The supplies and services to be obtained
by this instrument are authorized by, are
for the purposes set forth in, and are
chargeable to procurement authorities below
enumerated the available balances of
which are sufficient to cover the cost
thereof.
211/20905 8-6351 P331 S29-005

By /s/ Henry K. Shadel (Name)

(Official Title)
HENRY K. SHADEL
Chief, Real Estate Division
Office of the District Engineer, C of E
Albuquerque, New Mexico
(Contracting Officer)

APPROVED:

/s/ Guy Shepard
Commissioner of Public Lands
State of New Mexico

(SEAL)

CERTIFIED TRUE COPY
Wendell Hagood
attorney

MCDONALD BROTHERS' RANCH

We have owned and operated the McDonald Brothers' Ranch since 1924, running not less than 440 mother cows and was proud of the reputation of having one of the best quality herds in the State. This ranch, not only supported two families, but for several years supported and made a profit for three families.

Back in September of 1941, two Government real estate appraisers came to our ranch for the purpose of making an appraisal for the War Department. They spent about three hours or less, including their lunch hour, in making a list of our ranch property. They did not allow us to see any part of their list and the only questions asked was the depth of the wells and if there was any mortgage against the property. They did not ride any fence lines and later when the contracts were brought around by some different men, we found they had failed to include a great many things.

Late in December 1941, we were notified that our grazing permit had been suspended and to move all livestock from the Gunnery and Bombing Range area, and that there would be men around to deal with us personally for our property. Almost eight years have passed and there has never been anyone around to ask us personally what we thought would be a fair rental.

After we received notice that our grazing permit had been suspended, we began looking for a ranch to either lease or buy and it was while we were gone hunting a place that the Court order was served on our wives. By the time we returned, a part of the 10 days we had been allowed was gone. We only found pasture for less than half our herd but we made an attempt to get our livestock away by that time and found after two days of trying to drive our cows which were calving from 10 to 15 every 24 hours, we knew it was impossible. We separated the cows and calves that could walk 80 miles to the pasture we had leased. We took the cows heavy with calf and the cows with newborn calves back to our ranch where there was a loading chute to await buyers and available cattle trucks. We sacrificed half the herd and trucked the others to pasture. The truckers' helpers had to ride in back with the cattle to keep the calves that were being born from getting trampled to death.

Later when the cattle were unloaded, the mothers refused to claim the calves that were born in the trucks--another loss resulted there, after an actual expense of over $700 to move the herd.

Several months later, a Mr. Milam brought a contract around for us to sign which was an advance rental for a period of three years. When we saw the amount they offered, we knew it would not pay pasture and extra expenses on the cattle we had been running on the ranch for one year, much less three. We objected to the rental offer and were told by Mr. Milam that we could accept or not, as we liked, but if we did not, the land would be condemned and we would receive less. We did not accept at that time, however, and he kept threatening condemnation suit and finally one of the owners signed to keep the matter out of Court.

We still kept trying to get a re-appraisal but never succeeded. Several months later we were served some papers, saying the land had been condemned some time before and the price had been cut over one-half as Mr. Milam had stated it would if we did not accept their offer.

From the time we left our ranch, it was continually grazed by livestock, due to the fact the Army had torn part of our fences down. One of the owners sold his remaining cattle in 1943, when more pasture was unavailable, and due to drouth conditions, it became necessary for the other owner to move his cattle from the range he had leased. This was on July 1, 1944 and the cattle were so poor there was no sale for them. The cattle that were able to travel were taken back to our ranch and the remaining cattle were left in the corrals, being fed until they could gain strength to move, which was in September, 1944. Up to that time we had never received a dollar in rent from the War Department. The cattle stayed under fence on our ranch from the time they were moved there until we moved them out again in the latter part of November, 1944.

The Provost Marshall from the Alamogordo Air Base came to the ranch about November 9, 1944 and ordered the cattle removed at once. We did so and before we got the cattle moved, the Army had moved into our homes and began erecting about a 400-man camp there which was named "Trinity". The area was supposed to be put under heavy guard and all livestock removed.

In the early part of 1945, we were again served with papers to appear in Federal Court to show cause why we should not be punished for contempt of court. This situation was brought about by the sworn statement made by Captain Floyd T. Snider, stating that we had never given possession of that ranch to the Government from April 27, 1942 to the date of his statement which was made on or about December 20, 1944. We were both out of the stock business at that time. Our answer to the complaint caused our case to be dismissed without trial.

Our ranch, up to this time, was in fair condition with the exception of some fences torn down and removed. It was in 1946, before we received permission to visit our ranch, at that time we found they were destroying our own and other peoples' property. Some time in 1947 or later, they began to burn and bury our property. The windmill tower, the well drill and set of drilling tools, gas motors, metal tank, wagons, hoist, pipe and pump rods and various other equipment. We found pits where part of this equipment was buried. Our big surface tank had been destroyed, our corrals, branding and loading chutes wrecked and partly burned. One home has been badly abused in various ways. They cut the spreader dams that were built to keep flood water away from the ranch buildings, and after the war was over, they built a landing field which if it is not fixed soon will cause great damage to the property in the rainy season.

It is the popular belief by a great many that we have suffered no loss, or sacrificed anything by the acquisition of this land, and some seem to think we should be glad to continue as we have these past seven years, or to give up our homes completely. So we would like to give a general idea of how much we and our neighbors have lost.

As was stated before, our 440 mother cows with as low as a 70% calf crop would be 2100 calves and at a low average of $75.00, the total is $157,500.00 and still have our mother herd. How does this sound compared with less than $13,000.00 we received in rental for our property for 6 years?

This is just one ranch, and many of our neighbors have suffered as bad or worse. Some had never received any pay up until a few days ago and it is doubtful if it has been settled yet.

The ranchers may have failed to make "economic use" of this land, as the "Santa Fe New Mexican" stated, but I ask you, "how does it sound compared to the rental we got?" We ranchers on the Bombing Range would like to know what "special tax privileges" we have enjoyed. For personally, our Federal taxes, additional expence, leases and attorney fees have far exceeded what we have received in rentals from the ranch on the Bombing Range.

On March 27, 1949 a Committee was chosen by the members to represent them in trying to get a fair rental for the property taken by the U. S. Government in 1942. This report was written by my husband, Ross McDonald, and myself, and submitted to the Committee at their request. It is an account of what happened here, prior to, and during the removal of personal property and livestock in the spring of 1942.

The following statements covering the period from 1942 to 1950, dealing with Condemnations was written by my son, Howard McDonald. The complete report was presented to the G.A.O. Investigation Committee at Las Cruces, New Mexico, January 17, 1983.

Carmen McDonald

Let me add to this, that the occupation of the ranches in question was for 5 years or the duration of the war only. All of the ranchers involved believed this, and were also led to expect the return of their ranches. They thought at the conclusion of this period they would once again be in the ranching business and continueing their livlihood. But this was not to be, for then or ever.

In 1948 the ranchers were again subjected to a continuation of the Condemnation to deny them use of their ranches. However in some instances; approximately the Northern one third of the Bombing Range, the ranchers were not served the Condemnation notices. Therefore there was a lapse in the Condemnation and several of the owners moved back to their property, this group included us.

We rebuilt all of the improvements that had been destroyed or damaged by the Governments' previous occupation of the property. But to this day we have not been compensated for this expense which was covered in the original Lease and Suspension Agreement, agreed to and signed by the Governments' agents and the land owners in the 1942-47 period.

Then in late 1949 and 1950 the Government again made us leave under a Condemnation that was retroactive to the original date of taking, July 1, 1948. But quoting the contractual agreement, "this agreement shall remain in force hereafter from year to year without further notice; provided further that adequate appropriations are available from year to year for the payment of rentals and further that this agreement shall in no event extend beyond 30 June 1970." In other words the owners have had, a 1 year lease with the Government extendable at their option for 20 years. Therefore the Government has had a 20 year lease on the property, but we have only had a 1 year lease with them.

In 1970 another condemnation was filed on us, which was a lease for 10 more years until 1980. But this time they took only the private and State lease lands. The Government segregated each parcel from the rest, and in so doing, devalued the entire ranch unit to a fraction of it's real worth. They also offered us a settlement for the restoration of the improvements. One reason we refused to accept the offer was the wording contained therein. ("Exhibit":no. 1.)

The Lease and Suspension Agreement contained only the provision for restoration of improvements, and not for the Government to purchase our improvements, rights, title or interest thereon, for the price of restoration only.

In 1980 we were again condemned, but this time the value of our ranch properties were completely destroyed. This action was for purchase of our private lands and another lease on our State lands. By not allowing for any contributing value to any separate part, this decreased the value of the whole ranch which included Private, State and Federal land to a value of close to zero. This is shown in the example of one of the ranches in question, which I inherited in the fall of 1968. The valuation made for the I.R.S. for inheritance tax purposes was $246,850.00 for the whole ranch. My portion of this same ranch was valued at $112,750.00. This was the value used for the computation of inheritance taxes due. This valuation was made by common appraisal practices approved and governed by the I.R.S. This value was arrived at by figureing the value of the complete ranch unit, which included private, State, and Federal lands and the improvements thereon. It can't be said that the appraiser of the ranch property described did not know the situation of the lands within the White Sands Missile Range. He was the appraiser for the Corps of Engineers when the property was originally taken and so served the Corps until 1960. So he had first hand knowledge of the total situation within the bounderies of the W.S.M.R. from the beginning. (Exhibit No. 2.)

With the appraised value of $112,750.00 for this ranch and the manner in which the Government has devalued this same property, I would receive only $1,625.00 or less than 1.5 % of the appraised value of this ranch. This $1,625.00 is the offer made to me in the Supplemental Agreement in 1971-(Exhibit # 1) this amount was supposed to be for restoration of improvements only, but was for much more. (Exhibit # 1).

Over the 40 year period of the Governments' possession the owners have not been able to sell their property, or to borrow against it except for the amount of that current years' rental payment. It only changes ownership through inheritance.

Therefore the land owners have been left dangling like a puppet on a string, subject to the Governments' option to do with us whatever they chose over the last 40 years.

Howard McDonald
Tularosa, N. Mex.

Supplemental Agreement
White Sands Missile Range,
New Mexico
Tract 38, 38-1
Contract No.29-005-Eng-76

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT entered into this ________ day of ________ 1971, by and between Howard McDonald whose address is 1402 Cherry, Alamogordo, New Mexico 88310 for himself, his heirs, executors, administrators, successors and assigns, hereinafter called the "Grantors" and the United States of America, hereinafter called the "Government":

WITNESSETH THAT:

WHEREAS, on the 12th day of October 1949 a Lease and Suspension Agreement as amended was entered into by and between the Grantors and the Government covering certain lands situate in the ~~County of~~ Counties of Socorro and Lincoln, State of New Mexico, more particularly described in said agreement, to which was assigned Contract Number as above shown, for use by the Government for the period beginning 1 July 1948, which agreement has been in full force and effect from year to year to 30 June 1970, and

WHEREAS, said agreement expired on the 30th day of June 1970, and the Grantors have given notice that restoration of the premises by the Government in accordance with paragraph numbered 10 thereof will be required; and

Eng 76

WHEREAS, the Government is prepared to make a cash settlement in lieu of restoration, which cash settlement is acceptable to the Grantors:

NOW, THEREFORE, in consideration of the foregoing, the parties hereto do mutually agree as follows:

1. That the Grantors will accept in full satisfaction of the obligations of the Government to restore the premises under the terms and provisions of said Lease and Suspension Agreement the sum of $ 1,625.00

One Thousand Six Hundred Twenty Five and No/100 dollars and such payment shall be full and final compensation for the improvements on the premises and all of Grantors, rights, title or interest thereon, including but not limited to any improvements listed in the Schedule of Improvements for Lease and Suspension Agreement in its original or amended form. ~~The above payment is subject to the availability of funds.~~

2. That the Grantors hereby remise, release and forever discharge the Government, its officers and agents or employees of and from any and all manner of actions, liability and claims against the Government, its officers, agents and employees, which the Grantors now have or ever will have for the restoration of said premises under the terms of the Lease and Suspension Agreement or for the value of the improvements including but not limited to any improvements listed in the Schedule of Improvements for Lease and Suspension Agreement in its original or amended form.

3. That no member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this agreement or to any benefit to arise therefrom, but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

DATED THIS ________ day of ____________ 1971 ~~xxxx~~.

WITNESS:

____________________ ____________________

HOWARD MCDONALD

____________________ ____________________

____________________ ____________________

____________________ ____________________

UNITED STATES OF AMERICA

BY ____________________

QUALIFICATIONS OF THE APPRAISER

RALPH C. HOLMES
[redacted]
El Paso, Texas

Educational Background:

B. S. Degree, Agricultural Economics, Texas A and M College, 1938.

Case Study Courses, American Institute of Real Estate Appraisers
Course I - Stanford University - 1954
Course II - Notre Dame University - 1957

Experience:

22 years of professional appraisal experience covering real property of every character.

Crop Finance & Appraisal - Irrigated land in Pecos Valley of Texas and New Mexico, 1938.

Appraiser - Federal Land Bank of Houston, 1941, fee acquisition of rural properties.

Staff Appraiser - Corps of Engineers, Southwestern Division, 1942, fee acquisition of rural properties for military purposes.

Chief Appraiser - Corps of Engineers, Albuquerque District, 1944. Acquisition of various interests in all classes of property. Supervised 3 to 5 appraisers and supervised projects containing up to 1 1/2 million acres of grazing land.

Staff Appraiser - Corps of Engineers, Albuquerque District, Fort Bliss Project Office, 1947. Appraisal of all classes of real property.

Reviewing Appraiser - Corps of Engineers, Albuquerque District, 1957. Inspection of property and review of appraisal reports prepared by 4 staff appraisers.

Assistant Chief Appraiser - Corps of Engineers, Southwestern Division, 1959. Review and approval of all appraisals and gross approvals of 5 Engineer Districts in the States of Texas, New Mexico, Oklahoma, Louisiana, and Arkansas, and parts of Colorado, Kansas, and Missouri. Covering all classes of real estate.

Fee Appraiser - April 1, 1960, to present. Clients consist of Right-of-Way Section of City of El Paso, Public Service Board, City of El Paso, Airport Board, City of El Paso, Texas State Highway Department, General Services Administration, Department of Justice for Western District of Texas and District of New Mexico, and various individuals.

Memberships:

Licensed by State of Texas as a Real Estate Broker since 1949.
Member of El Paso Board of Realtors.
Member of American Right-of-Way Association.

Condemnation Experience:

Qualified as expert, and have furnished testimony in condemnation proceedings involving real estate in the Federal District Courts of the States of Texas and New Mexico; and in the State District Courts of Texas. Ex # 2

RESPONSE TO G.A.O. FACT SHEET RELATING TO THE ACQUISITION OF PROPERTIES FOR WHITE SANDS MISSILE RANGE AND FOR THE McGREGOR RANGE.

I

In the G.A.O. report on page 1, Paragraph II, the G.A.O. states "Claims for compensation have, for the most part, been settled through voluntary agreements or through condemnation cases." They also state in the same paragraph, "that it would not be appropriate for them to evaluate and reach conclusions on this issue," for it did not wish to prejudice the Government's case in future court actions. If the Government is taking the wrong approach to settlement, as we believe they are, shouldn't it be corrected now?

The failure of the G.A.O. to address the most pertinent and documented parts of the attempted settlements, plays into the Government's practice of double dealing and leaves the ranchers in the same position as before, with only a partial compensation for a whole that is many times greater than they were paid for.

The Government has attempted, and succeeded, in devaluating the ranch units to a fraction of their worth. This was done by paying for small individual segments of those ranches, and denying their contributing value to the whole ranch. A group of small individually valued segments do not equal the value of the whole.

II

When the lands (Patented, State and B.L.M.) were first taken in 1942, the Government made no provisions for permanent use, only a temporary occupancy. They only wanted the lands for 5 years, or the duration of the war. This was plainly stated in the condemnation, (Civil Action #394).[1] The condemnation said "an easement of exclusive use and possession for 5 years." In Executive Orders #9029 and #9526, state that the lands reserved by this order shall be returned to the administration of the Department of the Interior when they are no longer needed for the purpose for which they are reserved.[2] The Second War Powers Act of 1942 also made provisions for a temporary use of lands by condemnation.[3]

The ranchers were lead to believe that this was only a temporary use of their lands, by the provisions of law referred to above, but also were assured by Government officials that the ranches were to be returned at the end of the war. With these assurances the ranchers vacated their property.

III

In 1947 the Government again condemned the lands within the boundaries of "the Alamogordo, New Mexico Bombing Range." This condemnation was an amendment of the original in 1942, and contains the same "Civil Action #394, with the attached statement "Second Amended Petition."[4] The Second Amended Petition also uses the same authorities of taking as the original condemnation of 1942.[5]

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[1] See Ex. 1, Petition in Condemnation, Page 2, Paragraph IV.

[2] See Ex. 2, Executive Orders.

[3] See Ex. 3, Second War Powers Act 1942, title II and XV.

[4] See Ex. 4, Second Amended Petition Civil Action #394, Page 1.

[5] See Ex. 4, Second Amended Petition, Page 3, Paragraph I.

The Second Condemnation was a continuation of the original, with the exception, that the Second had no termination date. Therefore it was capable of holding these properties for perpetuity in a leased state.[6] The only provisions for a termination date were included in the Lease and Suspension Agreements.[7] Since both condemnations are identical, with a few amendments, I feel that the first conditions agreed to are still binding until they are satisfied. That is, it was a temporary taking and the property will be returned to the owner, or will be compensated fully for its loss.[8]

IV

The G.A.O. report says that, over the years the Federal Government terminated the grazing permits, or licenses, issued the ranchers. This was not so. They allowed them to expire by their own time limit, and the ranchers were not allowed to renew them.[9] The reason they were not allowed to renew the permits was that the B.L.M. did not have control of these lands at this time and; therefore, could not issue a renewal. This was also covered in the Lease and Suspension Agreements saying; "the Government would not prejudice our right to renewal when the lands are returned to the federal grazing administration.[10]

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[6] See Ex. 4, Second Amended Petition, Page 3, Paragraph IV.

[7] See Ex. 6, Lease and Suspension Agreement #II, Page 2, Paragraph IV.

[8] See Ex. 5, Lease and Suspension Agreement #I, Page 3, and Ex. 6, Lease and Suspension Agreement #II, Page 3, Paragraph IX.

[9] See Ex. 5 & 6, Lease and Suspension Agreements, Page 2, Paragraph III.

[10] See Ex. 5, Lease and Suspension Agreement #I, Page 3, Paragraph XI; and Ex. 6, Lease and Suspension Agreement #II, Page 3, Paragraph IX.

The G.A.O. statement on Page 3, last paragraph, stating "the B.L.M. cancelled or terminated all existing permits," is not so, because the same U.S. Grazing License number is listed in the 1948 Lease and Suspension Agreement.[11]

In the G.A.O. report on Page 4, in reference to Public Law 663, they contend the payments were for the cancellation of the permits. How could this be, when the taking was only temporary, for 5 years only? Those payments, and the ones in 1948, were for the temporary loss of use over this period of time. The Lease and Suspension Agreements in both 1942 and 1948 made provisions for the return of these lands to the original permit or license holders.[12] This is in reference to the G.A.O.'s comments listed under Lease and Suspension Agreements in Paragraph 2, Page 4 of their report.

V

In the G.A.O. report under Compensation for Private Property, Page 5, the Army condemned a leasehold in 1970 for 10 years. But the condemnation covered only the Patented and State Lease lands, each standing alone and not a ranching unit as stated. In 1974 they began to buy the Patented land and continued to lease the State land, omitting the contributing value of the interdispersed federal land and the value of all improvements on; patented, State, and federal land that forms a ranching unit. The result of buying a fractionalized part, leasing another part, and ignoring the rest, they destroyed the value of the ranch unit.

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[11] See Ex. 6, Lease and Suspension Agreement #II, Page 2, Paragraph III.

[12] See Ex. 5, Lease and Suspension Agreement #I, Page 3, Paragraph XI; and Ex. 6, Lease and Suspension Agreement #II, Page 3, Paragraph IX.

The Court of Claims ruling referred to by the G.A.O. on Page 6 of the fact sheet, found the Government's actions resulted in an inverse condemnation.[13] Their findings also concluded that our fifth Amendment rights were ignored by "the district and Circuit Courts insistance on treating complaints about the scope of the taking as unallowable counterclaims, plays into the defendant's (Government's) hands."[14] This was done by the Government with the intent of causing us to go through several court actions to collect compensation for the individual segments. With the court actions the statute of limitations would expire before we could get them filed. This happens because a higher or different court will not accept a case until it has been finalized in the lower courts.

VI

In the G.A.O. report, on Page 6, total payments, the G.A.O. and Corps of Engineers try to justify a lease payment over a period of 38 years, and a small payment for the purchase of patented lands only, as just compensation for a fee acquisition of the whole ranch. A lease payment over 38 years is not a purchase price. The Lease and Suspension Agreements signed by both Government agents and the ranchers, made no provision for a lease purchase option. This was strictly a lease agreement. The amount paid for lease of these lands does not apply toward a purchase of the ranch unit, no matter how long it was leased, or the total amount paid.

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[13] See Ex. 7, Alex J. Armijo, et al, v. The United States, 663F 2d 90 (1981).

[14] See Ex. 7, Court of Claims Ruling, all of Page 5.

By adding the "payments in lieu of restoration" they are again trying to make the sum total look like just compensation for the ranch unit. The Government agreed to "restore the premises to as good condition as that existing at the time of entering upon the same under this agreement.[15] The definition of premises in Websters New Collegiate Dictionary is, "the property conveyed in a deed; hence, a piece of land or real estate." The "payments in lieu" were for damage done to improvements, not their purchase, at a discounted rate ignoring their contributing value to the whole. There was no option in the lease for the Government to buy the improvements instead of replacement. An example of how the Government is treating this action is: You have a building worth $80,000.00 rented to a tenant that does $16,000.00 damage to it, and has to pay for the repair. Later the tenant decides to buy the building. Do you, as owner, deduct the $16,000.00 repair bill from the purchase price and sell it for $64,000.00? It is not a thing that anyone would agree to, yet this is what the Government is trying to force on us, as is shown under "Total Payments" on Page 6, #2, of the G.A.O. fact sheet.

In the statement on Page 7, the Corps of Engineers said they computed annual rents on the properties valued on a (CYL) carrying capacity, which is correct. But, they are also claiming a vested interest in these lands due to the rentals. The lease agreements were a year by year rental, and subject to cancellation with 90 days notice each year.[16] How could they have a vested interest on a year to year lease, subject to cancellation at any time? The values established and agreed to by both parties were for a rental of one year only, they did not set a total value of the unit for purchase. Also no interest was figured in the annual payemnts as done in an extended payment on a purchase price.

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[15] See Ex. 6, Lease and Suspension Agreement #II, Page 3, Paragraph X.

[16] See Ex. 6, Lease and Suspension Agreement #II, Page 5, Paragraph XVII.

VII

The comparison of the McGregor Range, Page 8 of the report, is not a valid comparison in the amount of monies paid. The only comparison is, the ranchers there were paid on a "Cow Unit Basis" for the whole ranch, not a rental spread over 38 years, as in the White Sands Missile Range. I don't see how they can compare a Total Purchase to a year to year rental agreement. The value of ranch land has increased at a minimum of 800% from 1956 until the present time. This comparison is totally inaccurate as a method of showing the present value of lands within White Sands Missile Range.

VIII

SUMMARY

In 1942 the land was condemned for training Air Force personnel for World War II. This condemnation was for 5 years, or the duration of W.W.II only. Everyone reluctantly surrendered their property for the war preparation and had to suffer the hardships that everyone endured during this Nation's time of sacrifice for the war effort. When the land was no longer needed for this purpose, it was to be returned to the ranchers that had termporarily let the Government have possession. But 40 years later the ranchers have still not been allowed to return to the lands, nor have they been compensated fully for its loss.

The ranch properties had been held under a lease for 38 years, when the Government decided to buy the property, but they only wanted to pay for the patented land. Claiming lease payments for 38 years compensated the land owners for the remainder, although they had contractual agreements with the land holders That specified the lands were only leased and were to be returned. They say that the lease paid is total compensation for the properties, without the benefit of a lease-purchase option. The lease monies received for rental was treated as ordinary income by the I.R.S. in computing taxes, because there was no other options made in the lease agreements. The Lease and Suspension Agreements also carried no interest stipulations for an extended purchase plan over a period of years, as normally done on a time payment agreement. It is my understanding that the Government is not allowed by law, to purchase property this way.

Let me point out once more that the lease was from year to year and subject to the Government's option to renew, and the will of Congress to appropriate money each year to keep this agreement active. How could this have been envisioned as a total compensation when it could have ended any June 30, after 1948? Would one years' lease have been full and total compensation for what was taken, and lost, by the people involved?

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EASEMENT OF EXCLUSIVE USE AND
POSSESSION FOR FIVE YEARS OF
CERTAIN OUTSTANDING SURFACE AND
SUBSURFACE OWNERSHIPS IN 1,267,200
ACRES OF LAND, MORE OR LESS, IN
DONA ANA, OTERO, LINCOLN AND
SOCORRO COUNTIES, NEW MEXICO.
C. M. HARVEY; C. C. McNATT & SON;
MAL WALTERS; OSIE DANLEY; CLAUDE
DANLEY; JEWEL DANLEY; THE UNKNOWN
HEIRS OF JAMES A. BAIRD, DECEASED;
FRANK ANDREGG; W. L. RITCH, SR.,
AND ASSOCIATES; KIE DANLEY, LUIS
AGUILAR; PETE AGUILAR; THE UNKNOWN
HEIRS OF ______________ GUILLEZ,
DECEASED; P. E. POTTER J. U. POTTER;
J. P. WOOD; J. H. WOOD, JR.,; ROY
E. TUCKER; CLAY L. SMITH; DICK GILLILAND; H. A. WOOD; SAM GILLILAND;
H. S. DILLARD: McDONALD BROTHERS;
DAVE McDONALD; ROSS McDONALD;
GEORGE McDONALD; A. D. HELMS; A. B.
HELMS; R. C. WITHERS, et.al.,;
W. H. GOODWIN; D. C. WOODS; C. S.
JOHNSON; CALVIN H. CASS; G. V.
CLAYTON; ERNEST AGUAYO; IF ANY OF
THE ABOVE-NAMED PERSONS BE DECEASED,
THEN THE UNKNOWN HEIRS OF SUCH
DECEASED PERSONS; THE STATE OF
NEW MEXICO; THE STATE TAX COMMISSION
OF THE STATE OF NEW MEXICO; ALL
UNKNOWN OWNERS, LIENORS, LESSEES,
OCCUPANTS, and CLAIMANTS OF
INTERESTS IN AND TO THE PREMISES
AFFECTED BY THE EASEMENT SOUGHT,

Defendants.

CIVIL ACTION NO 394

PETITION IN CONDEMNATION

Now comes the United States of America, a sovereign, by Everett M. Grantham, United States Attorney for the District of New Mexico, acting under the instructions of the Attorney General of the United States of America and at the request of the Secretary of War, and respectfully shows to the Court:

I

That this is a suit of a civil nature brought by the above-named plaintiff under the authority of and pursuant to the provisions of an Act of Congress approved August 18, 1890 (26 Stat. 316), as amended by the Acts of Congress approved July 2, 1917 (40 Stat. 241) and April 11, 1918 (40 Stat. 518; 50 U. S. C. sec. 171); the Act of Congress approved August 12, 1935 (49 Stat. 610, 611; 10 U. S. C. sections 1343a - 1343c); and Executive Order No. 8874, dated August 28, 1941, and Executive Order No. 9029, dated January 20, 1942.

II

That the Secretary of War has found and determined that it is necessary and advantageous to the interest of the United States to acquire the easement hereinafter described for use in connection with the establishment of the Alamogordo, New Mexico, Bombing Range.

III

That funds have been appropriated by the Act of Congress approved April 5, 1941 (Public No. 29 - 77th Congress), for the acquisition of the interest in land herein sought to be condemned; and that there are sufficient funds now available to pay whatever sums may ultimately be awarded and adjudged in this proceeding as just compensation, together with damages, if any, incident to the taking and condemnation thereof.

IV

That the plaintiff intends and seeks to take, acquire and condemn by this proceeding, an easement of exclusive use and possession for five years, of certain outstanding surface and subsurface rights, interests and ownerships in the following described area of land:

> Certain parcels of land situated in Dona Ana, Otero, Lincoln and Socorro Counties, States of New Mexico, containing 1,267,200 acres, more or less, described as follows: Beginning at a point on the 1st Standard Parallel South of the New Mexico Base Line, which point marks the Northwest corner of Township 6 South, Range 3 East of the New Mexico Principal Meridian; thence East along the aforementioned 1st. Standard Parallel South, a distance of approximately 30 miles to the Northeast corner of Township 6 South, Range 7 East of the New Mexico Principal Meridian; thence South along the East lines of Townships 6, 7, 8, 9 and 10 South, all in Range 7 East to the Southeast corner of said Township 10; Thence East along the 2nd. Standard Parallel South to the Northeast corner of Township 11 South, Range 8 East; thence South along the East lines of Townships 11, 12, 13, 14 and 15 South, all in Range 8 East, to the Southeast corner of said Township 15; thence East along the 3rd. Standard Parallel South to the Northeast corner of Township 16 South, Range 8 East; thence South along the East line of said Township 16 to the Southeast corner of said Township 16; thence West on a line parallel with the 3rd. Standard Parallel South to the Southwest corner of Township 16 South, Range 4 East; thence North along the West line of Township 16 South, Range 4 East to the 3rd Standard Parallel South; thence West along said 3rd. Standard Parallel South to the Southwest corner of Township 15 South, Range 4 East; thence North along the West lines of Townships 15, 14, 13, 12 and 11 South, all in Range 4 East to the 2nd. Standard Parallel South; thence West along said 2nd. Standard Parallel South to the Southwest corner of Township 10 South, Range 3 East; thence North along the West lines of Townships 10, 9, 8, 7 and 6 South, all in Range 3 East to the point of beginning.

a plat whereof is attached hereto, marked "Exhibit A ", and by reference made a part of this petition.

V

That the fee simple title to said area of land above described is vested in the United States of America, subject to certain outstanding rights, interests and ownerships in and over which said easement is sought to be taken and condemned; and that the taking and condemnation of said easement is necessary to enable the plaintiff to use its said area of land for an aerial bombing and gunnery range for the training of the air force of the United States Army.

VI

That the purposes for which the plaintiff is taking and condemning said easement constitute a public use.

VII

That the names and post office addresses of the reputed owners of said outstanding surface and subsurface rights, interests and ownerships in said area of land, insofar as they are known to the petitioner, are:

C. M. Harvey	El Paso Natl. Bank Bldg., El Paso, Texas
C. C. McNatt & Son	Alamogordo, New Mexico
MalWalters	Alamogordo, New Mexico
Ocie Danley	Alamogordo, New Mexico
Jewel Danley	Alamogordo, New Mexico
Claude Danley	Alamogordo, New Mexico
The Unknown Heirs of James A. Baird, Deceased	
Frank Andregg	Alamogordo, New Mexico
W. L. Ritch, Sr. and associates	Tularosa, New Mexico
Kic Danley	Alamogordo, New Mexico
Luis Aguilar	Tularosa, New Mexico
Pete Aguilar	Tularosa, New Mexico
The Unknown Heirs of ______ Guillez, Deceased	
P. E. Potter	Tularosa, New Mexico
J. U. Potter	Tularosa, New Mexico
J. P. Wood	Tularosa, New Mexico
J. H. Wood, Jr.,	Tularosa, New Mexico
Roy E. Tucker	Tularosa, New Mexico
Clay L. Smith	Tularosa, New Mexico
Dick Gililland	Tularosa, New Mexico
H. A. Wood	Tularosa, New Mexico
Sam Gililland	Tularosa, New Mexico
H. S. Dillard	Oscura, New Mexico
McDonald Brothers	Carthage, New Mexico
Dave McDonald	Carthage, New Mexico
Ross McDonald	Carthage, New Mexico
George McDonald	Carthage, New Mexico
A. D. Helms	Oscura, New Mexico
A. B. Helms	Oscura, New Mexico
R. C. Withers, et al	Carrizozo, New Mexico
W. H. Goodwin	Unknown
D. C. Woods	Unknown
C. S. Johnson	Tularosa, New Mexico
G. V. Clayton	Tularosa, New Mexico
Ernest Aguayo	Nogal, New Mexico
Calvin H. Cass	Alamogordo, New Mexico
The State Tax Commission of the State of New Mexico	Santa Fe, New Mexico
The State of New Mexico	

VIII

That the plaintiff has attempted to set forth the names of all persons having or claiming to have rights, interests and ownerships which will be affected by said easements and their correct addresses, but notwithstanding such statement, all unknown owners, leinors, lessees, occupants and claimants in and to said premises affected by the easement described herein, are made parties defendant in this proceeding to the end that they may appear, plead and defend in like manner as if named herein. That the places of residence and last post office addresses of the defendant The Unknown Heirs of James A. Baird, Deceased; The Unknown Heirs of__________Guillez, Deceased; W.H. Goodwin; D. C. Woods; The Unknown Heirs of any person named as a living defendant who may now be deceased; and All Unknown Owners, Leinors, Lessees, Occupants, and Claimants of interests in and to the Premises Affected by the Easement Sought, are to the plaintiff unknown. That each of said defendants, together with the defendant C. M. Harvey, of El Paso, Texas are so situated that service of process may not be had upon them personally. That as to the remaining defendants, if any or all of them are not located at the post office addresses set forth above, the plaintiff does not otherwise know their addresses, and as to any such defendants it may be nedessary to obtain service upon them by publication.

IX

That because of the importance of utmost haste in providing facilities for the wartime training of the armed forces of the United States, the immediate, exclusive possession, pending the action, of the outstanding surface and subsurface rights, interests and ownerships sought to be condemned, is vital for national defense and military purposes.

WHEREFORE, the premises considered and to the end that all and singular the easement described in this petition and hereby sought to be taken may be acquired by the United States by condemnation, in accordance with the several statutes and Acts of Congress in such cases made and provided, the plaintiff prays this Honorable Court:

1. To take jurisdiction of this proceeding and to make and enter all such orders, judgments and decrees as may be necessary to bring all of the known and unknown parties in interest before this court;

2. To forthwith make and enter an order giving to the United States of America, pending this action, the immediate, exclusive possession of the outstanding surface and subsurface rights, interests and ownerships herein described;

3. That the court determine all damages that may accrue to the defendants by reason of the condemnation of said easement, and assess such damages against the plaintiff herein;

4. That the court make and enter an order and decree of condemnation for the easement described in this petition, vesting title thereto in the United States of America for the uses and purposes hereinbefore set out;

5. To grant such other relief as the nature of the case may require.

UNITED STATES OF AMERICA

BY: EVERETT M. GRANTHAM
EVERETT M. GRANTHAM
United States Attorney
District of New Mexico
Attorney for Plaintiff

UNITED STATES OF AMERICA)
) ss:
DISTRICT OF NEW MEXICO)

EVERETT M. GRANTHAM, being first duly sworn upon oath, deposes and says:

That he is the United States Attorney for the District of New Mexico and attorney for the plaintiff in the foregoing cause; that he has read the foregoing Petition in Condemnation and knows the contents thereof; that the same is true to the best of his knowledge and belief.

EVERETT M. GRANTHAM
EVERETT M. GRANTHAM
United States Attorney

SUBSCRIBED AND SWORN to before me this 30 day of January, A. D., 1942.

Mary McConnell
Mary McConnell
Notary Public

(SEAL)

My commission expires:
10/3/45

FEDERAL REGISTER,
Washington, Thursday, January 22, 1942

PUBLIC LANDS—WITHDRAWAL

EXECUTIVE ORDER #9029

WITHDRAWING PUBLIC LANDS FOR USE OF THE WAR DEPARTMENT AS A GENERAL BOMBING RANGE

NEW MEXICO

By virtue of the authority vested in me by section 1 of the act of July 9, 1918, c. 143, 40 Stat. 845, 848 (U.S.C., title 10, sec. 1341) it is ordered that, subject to valid existing rights, the public lands in the following-described areas be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, including the mining laws, and reserved for the use of the War Department as a general bombing range:

NEW MEXICO PRINCIPAL MERIDIAN

Tps. 6 S. to 10 S., R. 3 E., inclusive.
Tps. 6 S. to 16 S., Rs. 4 E. to 7 E., inclusive.
Tps. 11 S. to 16 S., R. 8 E., inclusive.

The areas described, including both public and non-public lands, aggregate 1,249,904.36 acres.

This order shall take precedence over, but shall not rescind or revoke, (1) the Executive Order of April 27, 1926, creating Public Water Reserve No. 107, and (2) the order of the Secretary of the Interior of April 8, 1935, establishing Grazing District No. 4, New Mexico, so far as such orders effect any of the lands in the above-described areas.

In connection with the use by the War Department of the lands described herein, the local army commandant shall consult with such local representatives of the Department of the Interior as may be designated by the Secretary of the Interior as to the location of bomb-target sites, for the purpose of minimizing the effect of demolition bombing in areas valuable for scientific purposes.

It is intended that the lands reserved by this order shall be returned to the administration of the Department of the Interior when they are no longer needed for the purpose for which they are reserved.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
January 20, 1942.

[No. 9029]

[F. R. Doc. 42-626; Filed, January 21, 1942; 12:10 p. m.]

EXECUTIVE ORDER
No. 9526

10 F. R. 2423

AMENDING CERTAIN EXECUTIVE AND PUBLIC LAND ORDERS WITHDRAWING PUBLIC LANDS FOR PURPOSES INCIDENT TO THE NATIONAL EMERGENCY AND THE PROSECUTION OF THE WAR

WHEREAS by certain Executive and Public Land orders more than 13,000,000 acres of public lands have been withdrawn and reserved for the use of the military and other branches of the Federal Government for purposes incident to the various phases of the national emergency and the prosecution of the war; and

WHEREAS immediately prior to the issuance of such orders various Executive departments and independent agencies of the Federal Government had primary jurisdiction over, interests in, needs and uses for, or administration of, certain portions of such public lands; and

WHEREAS because of the findings of necessity for the emergency use of such lands, the jurisdiction over, interests in, needs and uses for, and administration of those lands by such departments and agencies were subordinated to such emergency use; and

WHEREAS it is and has been the intention, as expressed in most of the orders, that after the termination of the emergency, the public lands should be returned to the jurisdiction, uses, and administration which existed prior to the withdrawal and reservation of such lands for purposes incident to the national emergency and the prosecution of the war; and

WHEREAS it is appropriate that, in future determinations of the public purposes for which such lands shall be used, reserved, or administered after the emergency, those departments and agencies of the Federal Government which had prior jurisdiction over, interests in, or administration of such lands should have restored to them such jurisdiction over, interests in, or administration of the lands as existed prior to the withdrawal and reservation of the lands for purposes incident to the national emergency and the prosecution of the war:

NOW, THEREFORE, by virtue of the authority vested in me as the President of the United States as set forth in the orders hereinafter enumerated, it is ordered as follows:

The Executive orders and Public Land orders hereinafter enumerated, withdrawing and reserving public lands for uses incident to the national emergency and the prosecution of the war, are hereby amended by adding to each of the said orders the following paragraph:

"The jurisdiction granted by this order shall cease at the expiration of the six months' period following the termination of the unlimited national emergency declared by Proclamation No. 2487 of May 27, 1941 (55 Stat. 1647).[3] Thereupon, jurisdiction over the lands hereby reserved shall be vested in the Department of the Interior, and any other department or agency of the Federal Government according to their respective interests then of record. The lands, however, shall remain withdrawn from appropriation as herein provided until otherwise ordered."

Executive Order Numbers: 8101, 8102, 8305, 8325, 8343, 8450, 8507, 8508, 8577, 8578, 8579, 8636, 8651, 8652, 8725, 8755, 8786, 8789, 8792, 8793, 8794, 8830, 8831, 8847, 8865, 8872, 8874, 8877, 8884, 8892, 8915, 8923, 8927, 8932, 8954, 8957, 8992, 8999, 9000, 9014, 9019, 9020, 9026, 9029, 9042, 9053, 9081, 9086, 9104, 9107, 9109, 9114, 9143, 9215.

Public Land Order Numbers: 1, 3, 4, 6, 7, 9, 10, 11, 13, 15, 16, 18, 21, 22, 24, 25, 26, 27, 28, 31, 33, 34, 35, 37, 39, 40, 43, 44, 50, 52, 55, 56, 57, 58, 59, 60, 62, 63, 64, 66, 72, 74, 75, 76, 80, 81, 83, 85, 87, 88, 89, 90, 93, 94, 97, 98, 105, 109, 110.

Any provision in any of the orders hereinabove enumerated which is in conflict with this order is hereby superseded to the extent of such conflict: *Provided, however,* That any provision for the earlier return of jurisdiction over the public lands in any of said orders shall remain operative.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 28, 1945.

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[3] 50 U.S.C.A. Appendix, note preceding § 1.

SECOND WAR POWERS ACT

TITLE II ACQUISITION AND DISPOSITION OF THE PROPERTY

Sec. 201. The Act of July 2, 1917 (40 Stat. 241), entitled "An Act to authorize condemnation proceedings of lands for military purposes", as amended, is hereby amended by adding at the end thereof the following section:

"Sec. 2. The Secretary of War, the Secretary of the Navy, or any other officer, board, commission, or governmental corporation authorized by the President, may acquire by purchase, donation, or other means of transfer, or may cause proceedings to be instituted in any court having jurisdiction of such proceedings, to acquire by condemnation, any real property, temporary use thereof, or other interest therein, together with any personal property located thereon or used therewith, that shall be deemed necessary, for military, naval, or other war purposes, such proceedings to be in accordance with the Act of August 1, 1888 (25 Stat. 357), or any other applicable Federal statute, and may dispose of such property or interest therein by sale, lease, or otherwise, in accordance with section 1 (b) of the Act of July 2, 1940 (54 Stat. 712). Upon or after the filing of the condemnation petition, immediate possession may be taken and the property may be occupied, used, and improved for the purposes of this Act, notwithstanding any other law. Property acquired by purchase, donation, or other means of transfer may be occupied, used, and improved, for the purposes of this section prior to the approval of title by the Attorney General as required by section 355 of the Revised Statutes, as amended."

TITLE VI - POWER TO REQUISITION

Sec. 601. The last paragraph of section 1 of the Act of October 16, 1941 (55 Stat. 742), entitled "An Act to authorize the President of the United States to requisition property required for the defense of the United States", is amended by deleting subdivision (3) thereof, so that the paragraph will read as follows:

"Nothing contained in this Act shall be construed -

"(1) to authorize the requisitioning or require the registration of any firearms possessed by an individual for his personal protection or sport (and the possession of which is not prohibited or the registration of which is not required by existing law),

"(2) to impair or infringe in any manner the right of any individual to keep and bear arms."

Sec. 602. The second sentence of the first paragraph of section 1 of the Act of October 16, 1941 (55 Stat. 742), entitled "An Act to authorize the President Of the United States to requisition property required for the defense of the United States", is amended by striking out the words "on the basis of the fair market value of the property at" and inserting in lieu thereof the words "as of"; and at the end of such sentence, before the period, inserting the words, "in accordance with the provision for just compensation in the fifth amendment to the Constitution of the United States", so that such sentence will read as follows: "The President shall determine the amount of the fair and just compensation to be paid for any property requisitioned and taken over pursuant to this Act and the fair value of any property returned under section 2 of this Act, but each such determination shall be made as of the time it is requisitioned or returned, as the case may be, in accordance with the provision for just compensation in the fifth amendment to the Constitution of the United States."

TITLE XV - TIME LIMIT AND SHORT TITLE

Sec. 1501. Titles I to IX, inclusive, and titles XI and XIV of this Act, and the amendments to existing law made by any such title, shall remain in force only until December 31, 1944, or until such earlier time as the Congress by concurrent resolution, or the President, may designate, and after such amendments cease to be in force any provision of law amended thereby shall be in full force and effect as though this Act had not been enacted; but no court proceedings brought under any such title shall abate by reason of the termination hereunder of such title.

Sec. 1502. This Act may be cited as the "Second War Powers Act, 1942".

Approved, March 27, 1942, 3 p.m. Eastern War Time

Filed
Jan. 29, 19[illegible]
Wm D. Bryans
Clerk

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff, Civil Action No. 394

versus

1,267,200 Acres of Land, more or less, in Dona Ana, Otero, Lincoln and Socorro Counties, New Mexico; C. M. Harvey; C. C. McNatt & Son; Hal Walters; Osie Danley; Jewel Danley; Claude Danley; W. L. Ritch, Sr., and associates; W. J. Harris; F. O. Crockett; Kie Danley; THE HEIRS, LEGATEES, DEVISEES, CREDITORS, AND PERSONAL REPRESENTATIVES OF THE Guilez Estate; L. D. Cain, George W. Henderson and Sons; Eva Henderson Wood; F. E. Henderson & Son; Roy E. Tucker; Clay L. Smith; Dick Gililland; Lester Greer; Ira Greer; H. A. Wood; Three Rivers Land and Livestock Co., Inc.; B. O. Burris; Georgia Martin; W. F. Martin; Dave McDonald and Ross McDonald, doing business as McDonald Bros.; Tom McDonald; Jess Dillar; George McDonald; THE HEIRS, LEGATEES, DEVISEES, CREDITORS, AND PERSONAL REPRESENTATIVES OF THE Chas. H. Story Estate; Wesley Br[illegible]ton, Cicero Green; The H. O. Bursum Co., Inc.; Jewell Danley Selby; Walter Baird; Jim Baird; Jack Baird, Eugene Baird; Frank Andregg; William G. Ritch; Mrs. Eva Henderson Wood Degman; A. C. Woolf; Tularosa Community Grazing Assn.; J. [illegible] Johnson; J. W. Sidwell; Luis Aguilar; Pete Aguilar; Carlos Guilez; Rumaldo Guilez; Donicio Guilez; Emelia Reynolds; Telesfora Ramos; Pilar Sanchez; Santiago Rodriguez; Lupita Rodriguez, a minor; Manuel Rodriguez, a minor; Santiago Rodriguez, Jr.; Emmett Henderson; Willie Henderson; Andy Henderson; Finis Henderson; P. F. Potter; J. U. Potter; J. P. Wood; J. H. Wood, Jr.; Sam Gililland; H. S. [illegible]llard; Quatro Amigos (a partnership); Truman A. Spencer; Will Ed Harris; A. D. Brownfield; Laura E. Burris; Michel Farriet; George F. Foster; Grover C. Story, Manager of Chas. H. Story Estate; Lillie Story; Clara Story; Anna Story; H. O. Bursum; Holm O. Bursum; Irving V. Withers; W. C. Withers; Louis Nalda; Jose Carlos Johnson, known as Charles S. Johnson, known as C. S. Johnson; Tiburcia Melquin Johnson; Mrs. Jessie P. Cushman; Rex E. Pierce; Clara Duncan; Earl Pierce; Conway Pierce; Norman Pierce; Mrs. Nettie Pierce; Hazel Pierce; Marian Pierce; Virginia Pierce; May P. James; Ed J. Gotthelf, Jr.; Susan A. Gotthelf; Mrs. D. D. Harkness; H. R. Sellers, Chief Tax Commissioner; UNKNOWN HEIRS OF Jesse F. Green, known as J. F. Green (Dec'd); Mrs. Fanny Green; Phillip Green; Mrs. Roy Thomason; Leon Green; Jesse Bass; Leonard Bass; Arthur Bass; Vera Bell Bass; Fannie Maud Bass; Mrs. Pearl Green; Elnora McKee; L. C. Green, a minor; Mart Gilmore; Mrs. Pat Gilmore; Ted Fansworth; E. F. Farnsworth; J. F. Thomas; L. C. Hayes; [illegible] Binstock; Ray Kennedy; R. L. Verbeck; [illegible] J. McCallum; Ernest Bennett; W. C. Hunter; Art E. Richter; Emmett Wohlenberg; Frank Skidmore; J. C. Jackson; Rube McDonald; A. B. Fleming; J. Will Fleming; Calvin H. Cass; Mockingbird Mining Company (a partnership); Earl J. Stratton; [illegible] P. Ridings, Business Manager, Secretary and Treasurer of Mockingbird Mining Co.; Harry Cissell; Taylor McCasland; Glen Terrell; Harley Borden; Wesley Tosh; H. H. Delozier; Wilbur Wallace; Thomas Presley; Alda Burrough; Rex Burrough; Perry Roper; L. O. Reasoner; Leslie Coffman; Nelson Naylor; M. C. Sharp; Hamilton Williams; Spence Hall; Dwane Danielson; Ellie McCasland; Pearl Courtney; Thula Wolford; Clarence Barrett; Melvin Schumport; John Eason; Raymon Standord; Harold Radcliff; Frank Samora; A. C. Brown; Pedro Candelaria; Stanton Associates, Incorporated; E. M. Stanton, Jr.; Robert C. Chenworth, Ira L. Mosley; J. W. Dale; Elmo Dale; J. M. Keeney; Juan M. Miera; Lucas C. Baca; Jim Romero; Felipe A. Miera; W. E. Griffith; George E. Stone; W. C. Hunter; Ray Hunter; Wilbur Hunter; Jim Hunter; Amol Hunter; Luke Hunter; Hugh Hunter; J. W. Hunter; A. S. Hunter; Boyd Northcutt; Jas L. Gober; Alford Ray Stanley; Geo. G. Honeck; W. E. Blanchard; F. L. Blanchard; Bertie L. Cleghorn; Julius C. Sanchez, Inez Reed; R. E. Lambson; Nate C. Smith;

Henry Cross; L. C. Butler; Oscar Nelson; Helen Otis; George A. Shipley; J. R. Gililland; C. B. Hanson; B. S. Hanson; W. D. Heath; Robt. G. Gray; A. H. Hudspeth; Seferino Gallegos; Teodicio Carilla; Roberto Gutirez; Lupy Duran; Gladys Raeburn; J. W. Jackson; John E. Hall; R. L. Davidson; W. L. Reynolds; E. J. Swain; S. M. Castleberry; W. Walter Best; H. H. Porter; Dave Fresquez; Joe Perea; Mrs. D. M. Babers; E. Clifford Heald; John M. Morris; Anna M. Lane; UNKNOWN HEIRS OF Mrs. Rena Lan ; Deceased; T. D. Jones; B. L. Wooley; J. K. Hughes; S. A. Culberson; W. C. Lowden; Ed G. Stewart; E. H. Rodgers; J. B. Gardan; C. B. Wheeler; J. B. Gordan; J. V. Cowan; S. A. Guiberson, Jr.; Lila C. Singleton; C. F. Guillon; G. F. Guillon; Louis Petersen; Ed H. Stewart; A. D. Helms; A. B. Helms; R. C. Withers; Red Canyon Sheep Company, Inc.; W. H. Goodwin Cement; W. H. Goodwin; D. C. Woods; C. S. Johnson; G. V. Clayton; Ernest Aguayo; THE HEIRS, LEGATEES, DEVISEES, CREDITORS, AND PERSONAL REPRESENTATIVES OF Emil James, Deceased; THE HEIRS, LEGATEES, DEVISEES, CREDITORS, AND PERSONAL REPRESENTATIVES OF THE R. H. Pieroe Estate; Ed J. Gotthelf; G. V. Clayton; B. F. Edwards Grant; THE HEIRS, LEGATEES, DEVISEES, CREDITORS, AND PERSONAL REPRESENTATIVES OF D. D. Harkness, Deceased; Francis N. Hefner; W. F. Messman; F. C. Hunter; THE STATE OF NEW MEXICO; THE STATE TAX COMMISSION OF THE STATE OF NEW MEXICO; J. L. York; E. W. Brown, if living, Unknown Heirs, if Deceased; Paul Hires; Bertha Mason; Melford Morrison;; Bud Flaster; UNKNOWN HEIRS of Phil P. Blanchard, Deceased; A. L. Hitchens, if living, Unknown Heirs, if Deceased; UNKNOWN HEIRS of E. F. Norton, Deceased; David C. Sanders, if living, if deceased, his Unknown Heirs; IF ANY OF THE ABOVE-NAMED PERSONS BE DECEASED THEN THE UNKNOWN HEIRS OF SUCH DECEASED PERSONS: ALL UNKNOWN OWNERS OF THE LANDS HEREIN DESCRIBED,

Defendants.

SECOND AMENDED PETITION

Comes now the United States of America, a Sovereign, by its attorneys Everett M. Grantham, United States Attorney for the District of New Mexico, and John D. Murphy, Special Assistant to the United States Attorney, Lands Division, acting under the instructions of the Attorney General of the United States of America, and at the request of the Secretary of War, and respectfully show to the Court:

I.

That this is a suit of a civil nature brought by the above-named plaintiff under the authority of and pursuant to the provisions of an Act of Congress approved August 18, 1890 (26 Stat. 316), as amended by the Acts of Congress approved July 2, 1917 (40 Stat. 241) and April 11, 1918 (40 Stat. 518; 50 U. S. C. sec. 171); the Act of Congress approved August 12, 1935 (49 Stat. 610, 611; 10 U. S. C. sections 1343a - 1343c); and Executive Order No. 8874, dated August 28, 1941, and Executive Order No. 9029, dated January 20, 1942.

II.

That the Secretary of War has found and determined that it is necessary and advantageous to the interests of the United States to acquire the lands hereinafter described for use in connection with the establishment of the Alamogordo, New Mexico, Bombing Range.

III.

That funds have been appropriated by the Act of Congress approved April 5, 1941 (Public No. 29 - 77th Congress), for the acquisition of the lands herein sought to be condemned; and that there are sufficient funds available to pay whatever sum may ultimately be awarded and adjudged in this proceeding as just compensation, together with damages, if any, incident to the taking and condemnation thereof.

IV.

That the plaintiff intends and seeks to take, acquire and condemn by this proceeding a use for a term for years ending June 30, 1947, extendible for yearly periods thereafter at the election of the United States, notice of which election shall be filed in this proceeding at least 30 days prior to the end of the term hereby taken or subsequent extensions thereof, subject, however, to existing easements for public roads and highways, for public utilities, for railroads and for pipe lines, together with the right to remove within a reasonable time after the expiration of the term or extensions thereof any and all improvements or structures placed thereon by or for the United States, together with all buildings and improvements thereon and all appurtenances thereto, including any and all interests hereby taken in said land to the lands included within the following perimeter boundary:

Certain parcels of land situated in Dona Ana, Otero, Lincoln and Socorro Counties, State of New Mexico, containing 1,267,200 acres, more or less, described as follows:

Beginning at a point on the 1st Standard Parallel South of the New Mexico Base Line, which point marks the Northwest corner of Township 6 South, Range 3 East, of the New Mexico Principal Meridian;

Thence East along the aforementioned 1st Standard Parallel South to the Northwest corner of Section 1, Township 6 South, Range 5 East;

Thence South along the westerly boundary of said section 1 to the Southwest corner thereof;

Thence East along the southerly line of Section 1, Township 6 South, Range 5 East, to the Southeast corner of said Section 1;

Thence North along the Easterly boundary of Section 1, Township 6 South, Range 5 East, to a point on the aforementioned 1st Standard Parallel South;

Thence East along said 1st Standard Parallel South, a distance of approximately 6 miles to a point of intersection of the westerly right-of-way of U. S. Highway 380 with said 1st Standard Parallel South;

Thence southerly and easterly along the westerly right-of-way of U. S. Highway 380 to a point where said highway right-of-way intersects the East line of Township 6 South, Range 7 East, of the New Mexico Principal Meridian;

Thence South along the East lines of Townships 6, 7, 8, 9 and 10 South, all in Range 7 East to the Southeast corner of said Township 10;

Thence East along the 2nd Standard Parallel South to the Northeast corner of Township 11 South, Range 8 East;

Thence South along the East lines of Townships 11, 12, 13, 14 and 15 South, all in Range 8 East to the Southeast corner of said Township 15;

Thence East along the 3rd Standard Parallel South to the Northeast corner of Township 16 South, Range 8 East;

Thence South along the East line of said Township 16 South to the Southeast corner of said Township 16;

Thence West on a line parallel with the 3rd Standard Parallel South to the Southwest corner of Township 16 South, Range 4 East;

Thence North along the West line of Township 16S, Range 4 East, to the 3rd Standard Parallel South;

Thence West along said 3rd Parallel South, to the Southwest corner of Township 15 South, Range 4 East;

Thence North along the West lines of Townships 15, 14, 13, 12, and 11 South, all in Range 4 East to the 2nd Standard Parallel South;

Thence West along the 2nd Standard Parallel South to the Southwest corner of Township 10 South, Range 3 East;

Thence North along the West lines of Townships 10, 9, 8, 7, and 6 South, all in Range 3 East to the point of beginning.

Division Real Estate [illegible]:
1 Conformed copy Lease [illegible], Negotiator's Report [illegible]
Tract Owners [illegible], Appraisal Report, Ranch
Map.

Tract: [illegible]

LEASE AND SUSPENSION AGREEMENT

BETWEEN

TOM McDONALD

AND

THE UNITED STATES OF AMERICA

1. THIS AGREEMENT, made and entered into this 9th day of October in the year one thousand nine hundred and forty-two by and between Tom McDonald and Jane McDonald whose address is Tularosa, New Mexico for themselves their heirs, executors, administrators, successors and assigns, hereinafter called the Grantor, and THE UNITED STATES OF AMERICA, hereinafter called the Government.

WITNESSETH: The parties hereto, for the considerations hereinafter mentioned, covenant and agree as follows:

2. The Grantor hereby releases, leases and delivers possession to the Government of the following described premises, viz:

> The East half of the northeast quarter ([illegible]), the Southeast quarter ([illegible]) of Section fifteen (15); the Northeast quarter ([illegible]) and the East half of the Northwest quarter ([illegible]) of Section [illegible] ([illegible]); the Northeast quarter ([illegible]) of Section Twenty-Two (22), Township [illegible] ([illegible]), Range [illegible] ([illegible]), New Mexico Principal Meridian, containing [illegible] acres more or less,
>
> together with all of the [illegible] and privileges connected therewith on federal, state and privately owned lands [illegible] held by lease, permit or otherwise, within Townships [illegible], 7, [illegible], 10 South of Ranges [illegible], 5, 6, 7 [illegible] and Townships 11, [illegible], 13, 14, [illegible], 16 South of Ranges 4, 5, [illegible], 7, 8 East of the New Mexico Principal Meridian, said ranch containing 27,697 acres more or less

together with all other lands and rights, privileges and interests on lands, owned or controlled by the Grantor within the presently established boundaries of the ALAMOGORDO BOMBING RANGE,NEW MEXICO Project.

3. The Grantor warrants that he holds, or held prior to the Government's occupancy, both to and/or possession of the above described lands under the following instruments:

U. S. Grazing licenses numbered 37,128
and dated March 2[illegible], 1941
Leases from the Government numbered None
and dated
U. S. Grazing permits numbered None
and dated
U. S. Forest Service Permits numbered None
and dated
Leases dated L-5229 from the State of New Mexico
from
Lessors (here insert Railroad, State and other leases). None
Conveyances dated None
and recorded in the land records of County,
at Page(s) , Book(s).

4. TO HAVE AND TO HOLD THE said premises with their appurtenances for the term beginning April 27, 194[illegible] (here insert date of effective possession by United States) and ending June 30, 1945.

5. The Government shall not assign this agreement in any event; shall not sublet the demised premises; and shall not use said premises for other than military purposes.

6. This agreement may, at the option of the Government, be renewed from year to year commencing July 1, 1945. upon the payment of a consideration of $ 1,507.25 per annum, and otherwise upon the terms and conditions herein specified, provided notice be given in writing to the Grantor at least ninety days before this Agreement or any renewal thereof would otherwise expire: Provided that no renewal thereof shall extend the period of occupancy of the premises beyond the 30th day of June, 1967.

7. The Government shall pay the Grantor for the premises the sum of $ 5,000.00 for the term ending June 30, 1945. Payment shall be made as soon as the Government has had a reasonable time to accept this Agreement, examine the title and make disbursement.

8. Waiver of Compensation: The Grantor in consideration of this Agreement hereby for himself, his heirs, executors, administrators, successors, and assigns, expressly waives any and all claims for compensation other than the compensation herein set forth, for the taking by the Government of the above described premises, including damages, if any, to the remaining land controlled by the Grantor, and for the loss of any rights or privileges held or used in connection therewith.

9. The Grantor agrees to continue paying the taxes, state or other lease fees, other overhead costs and permit fees unless payment of said permit fees is cancelled or forgiven by the Government.

10. The Grantor agrees that in the event the payment of State or other base fees are eliminated by reason of the Government acquiring title to said lands, the consideration for the renewal of the agreement as hereinbefore provided shall be reduced in the amount of the annual lease fee or fees eliminated.

11. The Government recognizes that this transaction shall be without prejudice to the position of the Grantor in any application for grazing privileges made when and to the extent that the herein described lands are returned to federal grazing administration.

12. The Government shall have the right, during the existence of this Agreement, to make alterations, attach fixtures, and erect additions, structures or signs, in or upon the premises herein described, which fixtures, additions, or structures so placed in or upon or attached to the said premises shall be and remain the property of the Government and may be removed therefrom by the Government prior to the termination of this Agreement, and the Government, if required by the Grantor, shall, before the expiration of this Agreement or renewal thereof, restore the artificial improvements on the premises to the same condition as they were in at the time of entering upon the same under this Agreement, reasonable and ordinary wear and tear and damages by the elements or by circumstances over which the Government has no control, excepted; Provided, however, that if the Grantor required such restoration, the Grantor shall give written notice thereof to the Government sixty days before the termination of this Agreement. The kind, size, construction, and condition of each artificial improvement will be shown in detail on supplement "A" attached and made a part of this Agreement.

13. The Grantor grants to the United States the right of immediate occupancy and use of the land hereinabove described, for any purpose whatsoever, from and after the acceptance by the United States of this Agreement.

14. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom. Nothing, however, herein contained shall be construed to extend to any incorporated company, if the Agreement be for the general benefit of such corporation or company.

15. This Agreement is made pursuant to authority of the Act of July 9, 1942 (Public No. 663 - 77th Congress) and the Act of March 27, 1942 (Public No. 507 - 77th Congress).

16. It is the intention of the Grantor and he hereby agrees that this Agreement may be accepted by the United States through any duly authorized representative, by delivering, mailing, or telegraphing a notice of acceptance to the Grantor at the address stated below, at any time within three month(s) from the date thereof.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

In the presence of
Witness to the mark of Tom McDonald who cannot write and at whose request, and in whose presence I wrote his name
(Witness)

/s/ Laura McDonald
Oscura, New Mexico

/s/ George McDonald
Oscura, New Mexico

/s/ Joe B. Milam
Alamogordo, New Mexico

/s/ J. J. Statler

Tom McDonald his X mark
(Grantor)

/s/ Janie McDonald

UNITED STATES OF AMERICA

By ______________________
(Official Title).

APPROVED: October [illegible]

H. R. Rodgers
Commissioner of Public Lands
State of New Mexico

Project: HOLLOMAN AF BOMBING RANGE
New Mexico
Tract No.: 36
Contract No.: DA-29-005-Eng-84

LEASE AND SUSPENSION AGREEMENT **NEGOTIATED: /s/ J.O.K.**
J.O.K.

BETWEEN

Ross McDonald and Carmen McDonald

and

THE UNITED STATES OF AMERICA

1. THIS AGREEMENT, made and entered into this **24** day of **December**, in the year one thousand nine hundred and **forty-nine**, by and between **Ross McDonald and Carmen McDonald**, whose address is **Box 386, Tularosa, New Mexico** for **themselves, their** heirs, executors, administrators, successors and assigns, hereinafter called the Grantor, and THE UNITED STATES OF AMERICA, hereinafter called the Government.

WITNESSETH: The parties hereto, for the consideration hereinafter mentioned, covenant and agree as follows:

2. The Grantor hereby leases, releases, and delivers possession to the Government of all rights or privileges he possesses to the following described premises for the Government's full and unrestricted use, viz:

(See attached sheet for complete legal description)

together with all other lands and rights, privileges and interest on land, owned or controlled by the Grantor within the presently established boundaries of the Holloman Air Force Bombing Range Project.

DESCRIPTION SHEET FOR TRACT NO. 36

PATENTED LAND

Township 9 South, Range 5 East of the New Mexico Principal Meridian, Socorro County, New Mexico; S½NW¼ and SW¼ of Section 15; NE¼ and E½NW¼ of Section 21; NW¼ of Section 22.

FEDERAL LAND Department of the Interior (B. of L. M.).

Township 9 South, Range 5 East of the New Mexico Principal Meridian, Socorro County, New Mexico; Part of Sections 3, 4, 5, 6 and 7; All of Sections 8, 9, 10 and 11; Part of Sections 12 and 13; All of Section 14; E½ and N½NW¼ of Section 15; All of Section 17; Part of Sections 18 and 19; All of Section 20; W½NW¼ and S½ of Section 21; SW¼ and E½ of Section 22; All of Sections 23 to 29 inclusive; Part of Section 30; All of Sections 33, 34 and 35.

Township 9 South, Range 6 East of the New Mexico Principal Meridian, Lincoln County, New Mexico; Part of Sections 17 and 18; Sec.15. Lots 1 and 2, E½NW¼ and NE¼ of Section 19; All of Sections 20 and 21; Part of Sections 22, 27 and 28; All of Section 29; Part of Section 33.

Township 10 South, Range 5 East of the New Mexico Principal Meridian, Socorro County, New Mexico; All of Sections 1 and 3; Part of Sections 4, 5, 9, 10, 11 and 12.

Township 10 South, Range 6 East of the New Mexico Principal Meridian, Lincoln County, New Mexico; Part of NW¼ of Section 4; /s/ R.McD
Part of Sections 5 and 8.and Section 7. /a/ C.McD

STATE LAND

Township 9 South, Range 6 East of the New Mexico Principal Meridian, Lincoln County, New Mexico; All of Section 16; S½ of Section 19; All of Sections 30, 31 and 32.

Township 10 South, Range 5 East of the New Mexico Principal Meridian, Socorro County, New Mexico; All of Section 2.

Township 10 South, Range 6 East of the New Mexico Principal Meridian, Lincoln County, New Mexico; All of Section 6; N½ of Section 7.

3. The Grantor warrants that he holds, or held prior to the Government's occupancy, title to and/or possession of grazing privileges on the above described lands under the following instruments:

U. S. Grazing License numbered ____17,115____________________

which expires ______________________.

Lease from the Government numbered ______________________

which expires ______________________.

U. S. Grazing Permit numbered ______________________

which expires ______________________.

U. S. Forest Service Permit numbered ______________________

which expires ______________________.

Lease numbered ____B-6910____________, which expires 30 September/~~xxxxxx~~ ~~xxxx~~ 19 52, from the State of New Mexico.

Lease dated ______________________ from ______________________ (Lessor)

____ (Lessors - here identify railroad and other leases)

Conveyances dated ______________________

and recorded in the land records of ______________ County __________,

at Page (s) ______________, Book (s) ______________________.

4. To have and to hold the said premises with their appurtenances for the term beginning 1 July 1948 and ending 30 June 1949; provided, however, that unless and until the Government shall give notice of termination in accordance with the provisions hereof, this agreement shall remain in force hereafter from year to year without further notice; provided further [illegible] adequate appropriations are available from year to year for the payment of rentals and provided further that this agreement shall in no event extend beyond 30 June 1970.

5. The Government shall not assign this agreement in any event; shall not sublet the demised premises; and shall not use said premises for other than military purposes.

6. The Government shall pay to the Grantor for the use of the said premises, for the period beginning 1 July 1948 and ending 30 June 1950, rental at the following rate: $5,624.00 Dollars per annum. From and after 30 June 1950, during the life of this agreement, payment shall be made at the rate of $5,185.00 Dollars per annum. Payment shall be made at the end of each quarter by the Finance Officer, U. S. Army, Fort Bliss, Texas.

7. The Grantor agrees to continue paying the taxes, State or other lease fees and other overhead costs, unless payment of said fees in cancelled or forgiven by the Government.

8. The Grantor agrees that in the event the payment of State or other base fees are eliminated by reason of the Government acquiring title to said lands, the consideration for the renewal of this agreement as hereinbefore provided, shall be reduced in the amount of the annual lease fee or fees eliminated.

9. The Government recognizes that this transaction shall be without prejudice to the position of the Grantor in any application for grazing privileges made when and to the extent that the herein described lands are returned to federal grazing administration.

10. The Government shall have the right during the existence of this agreement to make alterations, attach fixtures and erect additions, structures or signs in or upon the premises herein described, which fixtures, additions or structures so placed in, upon or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. The Government shall surrender possession of the premises upon expiration or termination of this agreement and if required by the Grantor shall, prior to expiration or termination of this agreement, restore the [illegible] at the time of entering upon the same under th[illegible], reasonable and ordinary wear and tear and damages by the elements or by circumstances over which the Government has no control, excepted: Provided the Government shall have the right and privilege of making a cash settlement with the Grantor in lieu of performance of its obligation, if any, to restore the real estate,

personal property (if any be demised herein), or both real and personal property, which settlement shall in no event exceed the amount of any diminution in value of the premises resulting from the Government's use and occupancy; provided further that if the Grantor requires restoration of the premises to such condition or payment in lieu thereof, the Grantor shall give written notice thereof to the Government at least 60 days before the expiration or termination of this agreement. Should a mutually acceptable settlement be made thereunder the parties shall enter into a supplemental agreement hereto effectuating such settlement. In the absence of a firm determination as of the date of this agreement of the purposes for which the Government will use the demised premises, the rental reserved herein has been based on the use of the premises for agricultural purposes. In view thereof, the term "reasonable and ordinary wear and tear," as used herein shall mean reasonable and ordinary wear and tear that could be expected to result in use of the premises for agricultural purposes. The kind, size, construction and condition of each artificial improvement is shown in detail on "Schedule of Improvements for Lease and Suspension Agreement," attached hereto and made a part of this agreement.

11. Provided that in the event any Government property is located on the demised premises at the termination date, the rental will continue until such property is removed, restoration completed as provided for in Article 10 hereof, or a cash settlement and possession tendered to the Grantor.

12. The Grantor grants to the United States the right of immediate occupancy and use of the land hereinabove described, for any military purpose whatsoever, from and after the acceptance by the United States of this agreement.

13. The Grantor warrants that he has not employed any person to solicit or secure this agreement or any agreement for a commission, percentage, or contingent fee. Breach of warranty shall give the Government the right to annul the agreement, or in its discretion to deduct from the rental the

amount of such commission, percentage, brokerage or contingent fees. This warranty shall not apply to commissions payable by Grantors upon contracts or agreements secured or made through bona fide established commercial or selling agencies maintained by the Grantor for the purpose of securing business.

14. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit to arise therefrom. Nothing, however, herein contained shall be construed to extend to any incorporated company, if the agreement be for the general benefit of such corporation or company.

15. This agreement is made pursuant to authority of the Act of 9 July 1942, (Public No. 663, 77th Congress) as amended 28 May 1948 (43 USC 315q).

16. It is the intention of the Grantor and he hereby agrees that this agreement may be accepted by the United States through any duly authorized representative, by delivering, mailing or telegraphing a notice of acceptance to the Grantor at the address stated below, at any time within six months from the date hereof.

17. **The Government may terminate this agreement at the end of any fiscal year by giving 90 days notice in writing to the Grantor and no rental shall accrue after the effective date of termination.**

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

In presence of:

/s/ C. C. Johnson (Witness)	/s/ Ross McDonald (Grantor) Ross McDonald
/s/ Emma Green (Witness)	/s/ Carmen McDonald (Grantor) Carmen McDonald
(Witness)	(Grantor)

(Address to which notice of acceptance of this agreement is to be sent)

ACCEPTED for and on behalf of the UNITED STATES OF AMERICA

By /s/ Joseph O. Killian
(Name) JOSEPH O. KILLIAN
Lt Col, CE
District Engineer
(Official Title) Contracting Officer

APPROVED:

/s/ Guy Shepard
Commissioner of Public Lands
State of New Mexico
(SEAL)

The supplies and services to be obtained [illegible] sufficient to cover the cost thereof.

2190905 6-6347 P330 829-005
5704400 063-3023 443-05 829-001

Project Holloman AF Bombing Range

Tract No. 36

Contract No. DA-29-005-Eng-84

SCHEDULE OF IMPROVEMENTS FOR LEASE AND SUSPENSION AGREEMENT

Reference is made to a Lease and Suspension Agreement between the undersigned, designated therein as the Grantor, and THE UNITED STATES OF AMERICA, executed as of the 24 day of December, 1949.

This is to certify that the artificial improvements on the premises covered by said Lease and Suspension Agreement are as follows:

KIND	SIZE	CONSTRUCTION	CONDITION	LOCATION
Barn & Shop	17'6"x41'7"	Boxed, iron roof	Fair	Mocking Bird Ranch Hdq.
Bunk House	14 x 20	Boxed & sealed, iron roof	Fair	"
Chicken House	5 x 6	Boxed, iron roof	Poor	"
Privy	4 x 6	Sheet iron, iron roof	Fair	"
Rock Bunk House	9 x 10	No roof, rock foundation	Poor	"
Saddle Room	8 x 10	Boxed, iron roof, post fnd.	Fair	"
Metal Water Trough	4'x10'x2'	Coborete Bottom	Fair	"
Metal Water Trough	3½'x10'x1½'	Concrete Bottom	Fair	"
Engine Room	6 x 8	Frame, Tar paper roof	Fair	"
Shed	8 x 26	Boxed, iron roof, block fnd.	Fair	"
2 Metal Troughs	14½'x3½'x1½'		Fair	"
Metal Hog Trough	8'x1½'x1½'		Poor	"
Dwelling	16 x 24	Frame, iron roof	Good	"
Saddle Room & Grain House	10 x 12	(Bldg. Torn down)	Fair	"
Earthen Water Reservoir	6'x3½'	Dam 210' long	Fair	"
Earthen Reservoir	2' x 6'	150' long	Fair	"
Reservoir Enclosure	270' 70' 45'	6-str. wire, posts 48" mesh wire 42" net wire	Fair	"

(Grantor) (Grantor) (Grantor)

(Sheet one of foursheets)

Project Holloman AF Bombing Range
Tract No. 36
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This is to certify that the artificial improvements on the premises covered by said Lease and Suspension Agreement are as follows:

KIND	SIZE	CONSTRUCTION	CONDITION	LOCATION
4 Hog Pens	100 L.F.	36" mesh, posts 4' o.c.	Fair	Mocking Bird Ranch Hdq.
Picket Corral	375'	6-Str. double twisted wire	Fair	"
Corral	70'	7-str. B/W, posts 1½' o.c.	Fair	"
Well Wood Tower	163' deep 32'	6" casing, 4" pipe Sucker rod & cylinder gone 4 H.P. Challenger Engine & Pump Jack	Fair	"
Lead Pipe	150'	2"	Fair	"
Corrals - 4 pens	400 L.F. 210 L.F.	5' Fence, 7 wood gates Plank Corral	Good	"
Two old dug wells		Unused, one usable		"
Surface Tank	10'x40'x9' 10'x30'x5' 8'x20'x3'	1200' earthen dam 690' long settling tank 200' long spreader dam	Good	Red Tank
Fence around tanks	1800 L.F.	4-str. barbed wire	Good	Red Tank
Corral	220 ft.	5' heavy net wire, 1-str. BW	Good	Red Tank
Dug Well	30' deep	Abandoned		In Mountains
Fences - Boundary & Inside	22 miles	4 & 5-str. B/W	Fair to good	Red Tank
Mocking Bird Spring & Hoffman Spring				In Mountains

/s/ Ross McDonald
(Grantor)
Ross McDonald

/s/ Carmen McDonald
(Grantor)
Carmen McDonald

(Grantor)

(Sheet two of four sheets)

CR Form 143A

Project Holloman AF Bombing Range, New Mexico
Tract 36
Contract No. DA-29-005-Eng-84

SCHEDULE OF IMPROVEMENTS FOR LEASE AND SUSPENSION AGREEMENT

Reference is made to a Lease and Suspension Agreement between the undersigned, designated therein as the Grantor, and THE UNITED STATES OF AMERICA, executed as of the 2d day of December, 1949.

This is to certify that the artificial improvements on the premises covered by said Lease and Suspension Agreement are as follows:

KIND	SIZE	CONSTRUCTION	CONDITION	LOCATION
Well	163' deep	10' Challenge windmill (new); 24' wood tower, 6"x6" posts, 2"x6" bracing complete w/steel stub; 78 ft. of 4" water line; 78 ft. of wood sucker rod; 3 3/4"x36" cylinder; 24 ft. of 2" black lead pipe from well to reservoir.	Good	Headquarters, S15,T9S,R5E
Gas Engine & Pump Jack	1 cyl; 2 H.P.	Fairbanks-Morse; direct gear driven pump jack; Model 2000 (new)	Good	"
Reservoir	20' diameter, 5' in height	3/16" galv. iron, concrete & rock bottom & base, complete w/valve box & valve (new)	Good	"
Pipelines	40 lineal ft	2" black & galv. pipe (buried) (new)	Good	" (Reservoir to Corral Trough)
Pipelines	85 lineal ft	2" black & galv. pipe (buried) (new)	Good	(Corral Trough to Corral Trough)
Pipelines	40 lineal ft	1" galv. pipe (new)	Good	(Corral Trough to Oval Trough)
Trough	13' diameter, 1½' in hgt.	3/16" galv. iron, rock & concrete bottom & base (new)	Good	Headquarters, S15,T9S,R5E
Trough	13' diameter, 1½' in hgt.	3/16" galv. iron. Rock & concrete bottom & base (new)	Good	"
Rock Corrals (Corral Partitions)	100 lineal ft	38" Elwood wire & 1 to 3 - 2"x6" and 2"x8" planks on cedar & cross type posts at 6' intervals.	Good	"
Gates	4'x8'	4 - 2"x6" & 1 -2"x4" planks complete w/2"x6" brace & strap iron hinges (new mater.)	Good	"
	5½'x10'	5 - 2"x6" planks complete w/2"x6" brace & strap iron hinges (2d hand material)	Good	"
Board Corral	2 Pens; ~~xxxxxxxxx~~ ~~xxxxxxxxx~~	7 - 2"x4" boards on 4"x4" pine posts at 3' intervals; 27 l.f. of 4 - 2"x4" & one 2"x8" boards; 70 l.f. of 2"x6" boards; 24 l.f. 2"x6" & 2"x4" boards on pipe posts at 3' intervals	Good	"

(Grantor)   (Grantor)   (Grantor)

(Sheet three of four sheets)

CR Form 143A

Project Holloman AF Bombing Range, New Mexico
Tract 36
Contract No. DA-29-005-Eng-84

SCHEDULE OF IMPROVEMENTS FOR LEASE AND SUSPENSION AGREEMENT

Reference is made to a Lease and Suspension Agreement between the undersigned, designated therein as the Grantor, and THE UNITED STATES OF AMERICA, executed as of the 2d day of December, 19 49.

This is to certify that the artificial improvements on the premises covered by said Lease and Suspension Agreement are as follows:

KIND	SIZE	CONSTRUCTION	CONDITION	LOCATION
Corral Gates	4½'x10' (2)	Boards, w/brace & hinges	Good	Headquarters, S15,T9S,R5E
	4'x6' (1)	Boards, w/brace & hinges	Good	"
Wire Pen	210 l.f.	4 Strands of galv. barbed & smooth wire & 36" woven wire on cedar posts at 6' intervals	Good	"
Chute	10' long	Planks on pine posts at 3' intervals. Bottom of boards.	Good	"
Horse Trap	1½ miles	3 strands of galv. barbed wire on cedar posts at 30' intervals (new material)	Good	Extends West from Hq toward mountain parts of Secs. 15, 16 & 21, T 9 S, R 5 E.
Fence	2¼ miles	4 Strands galv. barbed wire on cedar posts at rod intervals.	Good	Between Tom and George McDonald; Secs. 4 & 5 T 9 S, R 5 E.

/s/ Ross McDonald
(Grantor)
Ross McDonald

/s/ Carmen McDonald
(Grantor)
Carmen McDonald

(Grantor)

(Sheet four of four sheets)

In the United States Court of Claims

No. 94-79L

(Decided October 21, 1981)

ALEX J. ARMIJO, et al.
v. THE UNITED STATES

J. Douglas Foster, for plaintiffs. *Harold L. Hensley, Jr.,* attorney of record, for plaintiff grazing lessees. *Hinkle, Cox, Eaton, Coffield & Hensley,* of counsel.

William O. Jordan, attorney of record for Commissioner of Public Lands, State of New Mexico.

Gerald S. Fish, with whom was *Assistant Attorney General Carol E. Dinkins,* for defendant. *Karlissa B. Krombein,* Army Corps of Engineers, of counsel.

Before FRIEDMAN, *Chief Judge,* NICHOLS and KASHIWA, *Judges.*

ON PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND DEFENDANT'S CROSS-MOTION FOR SUMMARY JUDGMENT

NICHOLS, *Judge,* delivered the opinion of the court:

The claims here are to recover "just compensation" for takings contrary to the fifth amendment, a time-honored branch of our jurisprudence which has included claims founded on the Constitution since the Tucker Act of 1887, now 28 U.S.C. § 1491. The claims present, if valid, another with optional contingent renewals. It is true there is nothing in the opinion to say the scope of the taking is greater than that described in the declaration. The flexibility is all in the just compensation. The Court of that day would certainly not have blanched at, say, a first single year's rental award as large or almost as large as 10 years' ordinary rental, if that were needed to make the condemnee whole. It is clear, however, in this case, that the district and circuit courts insistence on treating complaints about the scope of the taking as unallowable counterclaims, plays into defendant's hands. Defendant is shown in the congressional testimony cited by defendant in its brief as expecting to obtain rentals so low that over many years their capitalized values would not equal a probable single award for the entire fair market value. Defendant is playing as it does, not only to avoid having to ask for capital funds, but also because it sees an actual overall monetary saving.

We are not, of course, opposed to defendant saving money, but here it is doing it at the expense of the landowners' constitutional rights. They are entitled to just compensation in money, and to interest as delay damages to the extent they do not get their entire award contemporaneous with the taking. Thus money means a unitary award. *See Olson* v. *United States,* 292 U.S. 246, 255 (1934); *De Luca* v. *United States,* 84 Ct.Cl. 217, 245 (1936). It was never held that condemnees could be required to take their awards in property or bonds. Here, the landowner is by the existence of the Missile Range itself, virtually in the position of being deprived of the entire fee. He has nothing he can sell, nothing he can use. Yet he gets his award not at once, but dribbled out over decades. This is not what the fifth amendment requires.

Defendant says it is entitled to decide on the interest to be taken, and of course it is. The selection of a temporary interest for condemnation would not be challengeable if the taking was intended to be temporary, whether for a fixed or uncertain period. Defendant cannot, however, state a taking that is permanent for all purposes except assessment of just compensation, and temporary as to that alone. That is the effect of what it does here. The landowner is not put in as good a position as if the property were not taken, so far as money can do it. He could, with a unitary award, invest it in similar property and deal with that as the owner. Here he cannot. He cannot use or sell his expectation of receiving future rental as he could the property itself. One whose property is in the possession of a lessee who has power to extend the lease at will, is not in the position he occupied before the lessee entered into possession.

The date of the taking is not so easy and of course if it occurred over 6 years before March 12, 1979, the date plaintiffs first sued, the suit is barred by virtue of our 6-year statute of limitations, 28 U.S.C. § 2501. *Kabua Kabua v. United States, supra.* Plaintiffs' theory that the taking date conforms to the taking date of the privately-owned land, 1975, is valid only if the taking did not occur earlier. The facts as the parties present them reflect, at least by implication, that defendant's possession and use of the state lands up to 1970 was by consent and not adverse. If this is so, the choice of a taking date from 1970 to March 12, 1973, is all plaintiffs have to fear. The parties have not briefed the taking date except on the 1975 theory which we deem as stated not to be adequate, if the taking was earlier. Whether changes occurred from time to time in the nature of the government use we do not know. It may be that plaintiffs were not made to realize as early as 1970 that the rentals were not just a temporary expedient until funds for fee procurement could be obtained, as we know the Department of Defense wished to do. At any rate, the government's 1975 decision to condemn the fee in the private lands, but not the state lands, was a more striking and dramatic announcement of defendant's position than had occurred earlier. We leave the choice of a taking date for future proceedings, holding now that defendant has taken the entire fee of the state lands and must pay unless it can show it took before March 12, 1973. Its theory up to now has been it has taken no more than is described in its declarations of taking, *i.e.*, temporary leaseholds and options. This theory we reject.

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